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IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

TRANSCRIPT OF THE VOIR DIRE EXAMINATION HEARD ON THE 22ND AND
23RD DAYS OF SEPTEMBER, 2008, IN THE ABOVE STYLED AND NUMBERED
CAUSE, BEFORE HIS HONOR, JUDGE JOSEPH H. LOPER, JR., CIRCUIT
JUDGE, FIFTH CIRCUIT COURT DISTRICT OF THE STATE OF
MISSISSIPPI.

REPORTED BY OFFICIAL COURT REPORTER
TAMMY THOMAS, CSR, RPR (CSR NO. 1304)

A-P-P-E-A-R-A-N-C-E-S

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: Ladies and gentlemen, the first step in a trial is a procedure referred to as voir dire. That is where the Court and the attorneys for both sides ask questions of you to make sure that you can be a fair and impartial juror in the matter that is to be tried. The --

Well, wait a minute. Let me call up the case first. I am getting ahead of myself.

I am going to call up now the State of Mississippi versus Curtis Giovanni Flowers, Cause Number 2003-0071-CR.

What says the State?

MR. EVANS: State of Mississippi is ready for trial, Your Honor.

THE COURT: What says the defense?

MR. CARTER: We are ready, Your Honor.

THE COURT: Okay. Ladies and gentlemen, I will get back to what I was telling you on voir dire. That is the Court and attorneys for both sides ask questions of you to make sure that you can be fair and impartial jurors in the matter that is to be tried.

The purpose of asking these questions are just strictly for that purpose. We don't ask these questions for embarrassing anybody, putting anybody on the spot or anything like that. We just do want to make sure that we do get a fair and impartial jury to try this case.

It is necessary that you answer these questions under oath. So if you will please stand at this time and

1 raise your right hand, and I'll administer that oath to
2 you.

3 (THE JURY PANEL STOOD UP.)

4 Do you and each of you solemnly swear or affirm that
5 you will give true answers to all questions propounded to
6 you by the Court and by the attorneys in the selection of
7 a jury in this case, so help you God?

8 JURY PANEL: I do.

9 THE COURT: Thank you. If you will be seated,
10 please.

11 (THE JURY PANEL WAS SEATED.)

12 When there are questions asked of you that require
13 you to respond, if you would, please, stand but also have
14 that number that you got and hold it up so that we can
15 keep track of who we are speaking to throughout this
16 process. It's a number of you in here. So it would be
17 easier when you stand if you will hold that number up and
18 let us know who we are speaking to.

19 I always begin by introducing the attorneys that
20 will be participating in the trial. The State of
21 Mississippi is represented by Honorable Doug Hill -- Doug
22 Evans. I am trying to give him a new name today.
23 Honorable Clyde Hill is also -- he is assistant district
24 attorney, and Honorable Ryan Berry. These will be the
25 attorneys involved in the case.

26 And then the defense, Honorable Ray Charles Carter,
27 Honorable Alison Steiner and Honorable Andre deGruy.
28 These will be the attorneys that will be participating in
29 this case.

1 I'll ask first of you all a few questions about the
2 attorneys. I want to know if any of you are related by
3 blood or by marriage to any of the attorneys that are
4 involved in this case today. Any of you have a situation
5 where you are related by blood or by marriage to any of
6 the lawyers that are involved in this case?

7 And I take it by your silence -- and throughout the
8 process, if you are silent I will take that as a negative
9 response. I take it none of you are related by blood or
10 by marriage to any of the attorneys that are involved.

11 Have you ever had a situation where one of these
12 attorneys or possibly more than one of these attorneys
13 have done any legal work for you? Ever been in a
14 situation where you were represented by one of these
15 attorneys?

16 Okay. Number 9. Miss Carter, and what was that
17 situation?

18 JUROR KAREN CARTER: Mr. Evans had prosecuted a
19 case for us where our house was broken into, been many
20 years ago.

21 THE COURT: And is that a situation where
22 because of that that would affect you in any way in being
23 a fair and impartial juror?

24 JUROR KAREN CARTER: No.

25 THE COURT: It would not. Okay. Thank you.
26 Anyone else?

27 Okay. Number 6. Mr. Brown, what is that situation?

28 JUROR GEORGE BROWN: Yes, sir. I used to be an
29 employee with Grenada Police Department.

1 THE COURT: And Mr. Evans and Mr. Hill, I
2 think, both worked for them at some point.

3 JUROR GEORGE BROWN: Yes, sir.

4 THE COURT: And have either of these lawyers
5 done any work for you in the past or were -- they were
6 prosecuting a case where you might have been working as a
7 police officer; is that correct?

8 JUROR GEORGE BROWN: Yes, sir.

9 THE COURT: And would that affect you in being
10 a fair and impartial juror in this case?

11 JUROR GEORGE BROWN: No, sir, it would not.

12 THE COURT: Okay. Thank you.

13 Anyone else that has a situation where you might
14 have been represented by any of the attorneys that are
15 involved in this case?

16 BAILIFF BROWNING: 153 is here. Can she be
17 seated?

18 THE COURT: Yes. If you will come...

19 BAILIFF BROWNING: Do you want her up there?

20 THE COURT: Yeah. I think maybe we can squeeze
21 her in. Just put her in there.

22 BAILIFF BROWNING: Yeah. We skipped a spot.

23 THE COURT: Okay. Put her in there then.

24 She needs to be sworn.

25 If she will stand there and I'll --

26 If you will raise your right hand.

27 Do you solemnly swear or affirm that you will give
28 true answers to all questions propounded to you by the
29 Court and by the attorneys in the selection of the jury

1 in this case, so help you God?

2 JUROR NORA BUTTS: I swear.

3 THE COURT: Okay. If you will be seated,
4 please.

5 (JUROR NUMBER 153, NORA BUTTS, WAS SEATED WITH THE JURY
6 PANEL.)

7 Okay. We were asking -- the only question you've
8 missed is in a situation involving the attorneys. And
9 I'd introduced the attorneys - Honorable Doug Evans,
10 Honorable Clyde Hill, Honorable Ryan Berry, Honorable Ray
11 Charles Carter, Honorable Alison Steiner, Honorable Andre
12 de Gruy. These are the attorneys that are involved in
13 this case.

14 So are you related by blood or by marriage to any of
15 these attorneys, Miss Butts?

16 JUROR NORA BUTTS: No.

17 THE COURT: And have any of these attorneys
18 ever represented you in some legal matter?

19 JUROR NORA BUTTS: No, sir.

20 THE COURT: Okay. Thank you.

21 Okay. Number 28.

22 JUROR BRADFORD JOHNSON: Mr. Evans represented
23 my daughter in a case about a year ago.

24 THE COURT: Was he prosecuting the case where
25 she was some crime victim?

26 JUROR BRADFORD JOHNSON: Yes, sir.

27 THE COURT: And would that affect your ability
28 to be a fair and impartial juror in this case?

29 JUROR BRADFORD JOHNSON: No, sir.

1 THE COURT: And so you will lay that aside and
2 that won't be a consideration if you are selected on a
3 jury; is that correct?

4 JUROR BRADFORD JOHNSON: Yes, sir.

5 THE COURT: Okay. Thank you.

6 And Number 111.

7 BAILIFF BROWNING: Judge Loper, she cannot hear
8 you. She is the one that has the bad hearing problem.
9 The only way that 111 can hear you is to be right up
10 there.

11 THE COURT: Okay. Why don't we just move her
12 right on up here to the front row?

13 BAILIFF BROWNING: Can she sit right here?

14 THE COURT: She can sit anywhere on this front
15 row in front of the jury box. I want to make sure that
16 we take care of Miss Laster.

17 (JUROR NUMBER 111, DEBORAH LASTER, WAS SEATED.)

18 Miss Laster, did you hear the questions about the
19 lawyers. I was asking --

20 JUROR DEBORAH LASTER: Yes.

21 THE COURT: -- if you were related by blood or
22 by marriage to any of the lawyers.

23 JUROR DEBORAH LASTER: I had some help in the
24 back.

25 THE COURT: Okay. And have any of these
26 lawyers done any work for you in the past?

27 JUROR DEBORAH LASTER: No. But I knew Mr.
28 Evans many, many, many years ago when I worked as a
29 reporter in Grenada. That's probably been 30 years ago.

1 THE COURT: And would that affect you in being
2 a fair juror in this case?

3 JUROR DEBORAH LASTER: No, sir.

4 THE COURT: And I'll ask now kind of the
5 reverse side of the question. Have any of you ever been
6 in a situation where you were on the opposite side of a
7 legal proceeding from which one of these attorneys might
8 have been involved? That is, has one of these lawyers
9 opposed you in some legal matter that you were involved
10 with?

11 I'll ask one last question about the lawyers, and
12 then we'll move on to another subject. I want to know if
13 any of you have a situation where you have a close,
14 personal friendship, close relationship with one of the
15 lawyers in this case today where that would affect you in
16 being a fair and impartial juror?

17 Again, do any of you have a close relationship,
18 friendship, acquaintanceship with one or more of the
19 lawyers that would affect you in being a fair and
20 impartial juror? I take it by your silence that you do
21 not have that situation.

22 I know that we had some people answer the
23 questionnaires concerning this, but I will go ahead and
24 ask this question again. And that is are any of you
25 currently serving in law enforcement? Have any of you at
26 any time in the past served in law enforcement? Also,
27 are you related by blood or by marriage to somebody that
28 has in the past or presently serves in law enforcement?
29 And if you have, if you will all, please, stand.

1 Okay. We'll start over with Number 1, Miss Wilson.
2 And I believe you put on your form that your
3 brother-in-law is a former law enforcement officer in
4 Tennessee; is that correct?

5 JUROR MARTHA JANEY-WILSON: Yes, sir.

6 THE COURT: And is there any other relatives --

7 JUROR MARTHA JANEY-WILSON: No, sir.

8 THE COURT: -- in law enforcement?

9 JUROR MARTHA JANEY-WILSON: No, sir.

10 THE COURT: And would the fact that your
11 brother, former law -- brother-in-law, former law
12 enforcement, would that affect you in any way in being a
13 fair and impartial juror in this case?

14 JUROR MARTHA JANEY-WILSON: No, sir.

15 THE COURT: Okay. Thank you.

16 Then Number 5. Mr. Chambley, I believe you said
17 your father was formerly in law enforcement.

18 JUROR BENNY CHAMBLEY: Right.

19 THE COURT: And then Cole Adams, state trooper,
20 is your brother-in-law; is that correct?

21 JUROR BENNY CHAMBLEY: Yes.

22 THE COURT: Any other relationships?

23 JUROR BENNY CHAMBLEY: (Shook head.)

24 THE COURT: Would those affect you in any way
25 in being a fair and impartial juror in this case?

26 JUROR BENNY CHAMBLEY: No, sir. Not at all.

27 THE COURT: Okay. Thank you.

28 And Mr. Brown, you are retired police officer in
29 Grenada; is that correct?

1 JUROR GEORGE BROWN: Yes, sir.

2 THE COURT: And is there anything about your
3 prior law enforcement experience that would affect you
4 or -- in any way in being a fair and impartial juror in
5 this case?

6 JUROR GEORGE BROWN: No, sir.

7 THE COURT: Okay. Thank you.

8 Miss McClurg, you are married to Billy McClurg,
9 state trooper; is that correct?

10 JUROR SHERYL MCCLURG: Yes, sir.

11 THE COURT: And would that situation affect you
12 in any way in being a fair and impartial juror in this
13 case?

14 JUROR SHERYL MCCLURG: No, sir.

15 THE COURT: Okay. Thank you.

16 And Mr. Pope, Number 11, your brother is a state
17 trooper; is that correct?

18 JUROR JAMES POPE: Retired.

19 THE COURT: Retired state trooper. And is --
20 do you have any other relationships or kinships with law
21 enforcement?

22 JUROR JAMES POPE: Not at this time.

23 THE COURT: How about in the past? Anybody
24 else in the past?

25 JUROR JAMES POPE: No.

26 THE COURT: Would that affect you or influence
27 you in being a fair and impartial juror in this case?

28 JUROR JAMES POPE: No, sir.

29 THE COURT: Okay. Thank you.

1 Number 14. Mr. Moorehead, I believe you have got a
2 relative in Georgia that is in law enforcement; is that
3 correct?

4 JUROR ROBERT MOOREHEAD: Yes, sir. Nephew.

5 THE COURT: And who is it?

6 JUROR ROBERT MOOREHEAD: Nephew.

7 THE COURT: Would that affect you in any way in
8 your ability to be a fair and impartial juror in this
9 case?

10 JUROR ROBERT MOOREHEAD: No.

11 THE COURT: Okay. Thank you.

12 Would you grab my Halls cough drops? It is so hot
13 in here. My throat is fixing to leave me real fast.

14 Okay. Then Number 18. Let's see. You are related
15 by marriage to David Johnson, who was deputy sheriff and
16 former trooper here; is that correct?

17 JUROR SANDRA BRITT: (Nodded.)

18 THE COURT: And are you related to anybody else
19 in law enforcement?

20 JUROR SANDRA BRITT: No.

21 THE COURT: Would that factor influence you or
22 affect you at all in being a fair and impartial juror in
23 this case?

24 JUROR SANDRA BRITT: No.

25 THE COURT: Okay. Thank you.

26 And Mr. Henry, let's see. Your brother is a police
27 officer in Grenada; is that correct?

28 JUROR LARRY HENRY: Yes, sir.

29 THE COURT: And what is his name?

1 JUROR LARRY HENRY: Barry Henry. He is
2 reserve.

3 THE COURT: What is his first name?

4 JUROR LARRY HENRY: Barry.

5 THE COURT: Barry. Okay. And he is a reserve
6 officer in Grenada County.

7 JUROR LARRY HENRY: In Grenada.

8 THE COURT: And the city as well.

9 JUROR LARRY HENRY: Yes, sir.

10 THE COURT: And would those factors affect you
11 in any way in being a fair and impartial juror in this
12 case?

13 JUROR LARRY HENRY: I believe it will.

14 THE COURT: So you think you couldn't be fair
15 because of that.

16 JUROR LARRY HENRY: I don't think so, sir.

17 THE COURT: Okay. So it would affect you then.

18 JUROR LARRY HENRY: Um-hum.

19 THE COURT: Okay. Thank you. Okay. You can
20 be seated.

21 And Number 23. Your -- how are you related to
22 Dennis Wood, police officer here?

23 JUROR TEPPY FORREST: First cousin.

24 THE COURT: First cousin. And would that
25 affect you or influence you in any way in being a fair
26 and impartial juror in this case?

27 JUROR TEPPY FORREST: Yes, sir.

28 THE COURT: So you have got concerns about
29 being fair because your cousin is in law enforcement; is

1 that right?

2 JUROR TEPPY FORREST: Yes, sir.

3 THE COURT: Okay. Thank you.

4 Number 26. Miss Branch, let's see. Your husband's
5 uncle was chief of police here; is that correct?

6 JUROR LISA BRANCH: That's correct.

7 THE COURT: And any other relatives in law
8 enforcement?

9 JUROR LISA BRANCH: No, sir.

10 THE COURT: And would that factor influence you
11 or affect you in being a fair and impartial juror in this
12 case?

13 JUROR LISA BRANCH: It would not.

14 THE COURT: Okay. Thank you.

15 And then Number 28. Mr. Johnson, let's see. You
16 are related to cousin, David Johnson; is that correct?

17 JUROR BRADFORD JOHNSON: Yes, sir.

18 THE COURT: What degree of kinship?

19 JUROR BRADFORD JOHNSON: Second cousin.

20 THE COURT: And you would, I assume, be related
21 to John Johnson as well.

22 JUROR BRADFORD JOHNSON: Yes, sir.

23 THE COURT: And would those factors influence
24 you or affect you in any way in being a fair and
25 impartial juror in this case?

26 JUROR BRADFORD JOHNSON: No, sir.

27 THE COURT: Okay. Thank you.

28 Mr. Bailey, you're stepson to Mr. Able; is that
29 correct?

1 JUROR WAYNE BAILEY: Yes, sir.

2 THE COURT: Who was -- is in law enforcement in
3 Montgomery County and Duck Hill; is that correct?

4 JUROR WAYNE BAILEY: Yes, sir.

5 THE COURT: And would that factor influence you
6 or affect you in any way in being a fair and impartial
7 juror?

8 JUROR WAYNE BAILEY: No, sir.

9 THE COURT: It would not. Okay. Thank you.

10 Okay. Miss Ingram, you are a cousin to John and
11 David Johnson; is that correct?

12 JUROR REGINA INGRAM: Right.

13 THE COURT: And what degree? Do you know?

14 JUROR REGINA INGRAM: Second.

15 THE COURT: Second. You also kin to Mr.
16 Johnson here on the panel.

17 JUROR REGINA INGRAM: Right.

18 THE COURT: Would that affect you in any way in
19 being a fair and impartial juror in this case?

20 JUROR REGINA INGRAM: No.

21 THE COURT: Okay. Thank you.

22 Okay. Mr. Knox, your father was a law enforcement
23 officer in Grenada -- I mean in Winona for about 20
24 years; is that correct?

25 JUROR ORMAN KNOX: That's correct.

26 THE COURT: Would that influence you or affect
27 you in being a fair and impartial juror in this case?

28 JUROR ORMAN KNOX: No, sir.

29 THE COURT: Thank you.

1 And Mr. Bennett, you're related to a person that is
2 a police officer in Arkansas and then the deputy city
3 clerk here in Winona; is that correct?

4 JUROR WILLIAM BENNETT: Yes, sir.

5 THE COURT: And would those factors influence
6 you at all or affect you in being a fair and impartial
7 juror in this case?

8 JUROR WILLIAM BENNETT: Probably not.

9 THE COURT: Any doubt in your mind?

10 JUROR WILLIAM BENNETT: Yes, sir.

11 THE COURT: So you have got some doubts about
12 whether you can be fair because of law enforcement
13 kinship; is that correct?

14 JUROR WILLIAM BENNETT: Right.

15 THE COURT: Okay. Thank you.

16 Mr. Newman, I don't think you listed on your
17 questionnaire. Who is it?

18 JUROR MOSES NEWMAN: I have a cousin that is
19 like a dispatcher, Merlin Knight.

20 THE COURT: And what is the cousin's name?

21 JUROR MOSES NEWMAN: Merlin Knight.

22 THE COURT: And is that here in Winona?

23 JUROR MOSES NEWMAN: Yes, sir.

24 THE COURT: Is that for the county or city?

25 JUROR MOSES NEWMAN: For -- I believe it's for
26 the city.

27 THE COURT: City. And would that influence you
28 or be a factor in you being a fair and impartial juror in
29 this case?

1 JUROR MOSES NEWMAN: No, sir.

2 THE COURT: Okay. Thank you.

3 And Mr. Bibbs, you are related to Tommy Bibbs,
4 police officer here in Winona; is that correct?

5 JUROR JAMES BIBBS: That's right.

6 THE COURT: Have you got any other relatives in
7 law enforcement?

8 JUROR JAMES BIBBS: No.

9 THE COURT: And would that fact influence you
10 or affect you in being a fair and impartial juror in this
11 case?

12 JUROR JAMES BIBBS: No.

13 THE COURT: Okay. Thank you.

14 Number 41. Miss Henson, and your former husband was
15 a law enforcement officer in Alabama; is that correct?

16 JUROR JOYCE HENSON: Yes, sir.

17 THE COURT: And would that influence you or
18 affect you in any way in being a fair and impartial juror
19 in this case?

20 JUROR JOYCE HENSON: No, sir.

21 THE COURT: Okay. Thank you.

22 Number 47. Miss Johnson, you are related to David
23 Johnson and John Johnson as well; is that correct?

24 JUROR KAREN JOHNSON: Yes, sir.

25 THE COURT: How are you related to them?

26 JUROR KAREN JOHNSON: My husband is first
27 cousins.

28 THE COURT: So first cousin by marriage.

29 JUROR KAREN JOHNSON: Yes, sir.

1 THE COURT: And would that influence you or be
2 a factor in you being a fair and impartial juror in this
3 case?

4 JUROR KAREN JOHNSON: No, sir.

5 THE COURT: Okay. Thank you.

6 And then Number 48. You've got a relative that
7 works at C.M.C.F. or --

8 JUROR TONNY SEALS: I used to be a correction
9 officer.

10 THE COURT: Your relative or you did?

11 JUROR TONNY SEALS: I did.

12 THE COURT: Okay. You were former -- and was
13 that out at the jail?

14 JUROR TONNY SEALS: Yes, sir.

15 THE COURT: And would the fact that you've
16 served in that capacity in the past influence you or
17 affect you in any way in being a fair and impartial juror
18 in this case?

19 JUROR TONNY SEALS: No, sir.

20 THE COURT: Okay. Thank you.

21 Mr. Reed, you are a security guard now; is that
22 correct?

23 JUROR ROBERT REED: Yes, sir.

24 THE COURT: And do you have any other relatives
25 in law enforcement or connection --

26 JUROR ROBERT REED: I have a nephew that is
27 police officer in Grenada.

28 THE COURT: And what is his name?

29 JUROR ROBERT REED: Ron Gregg.

1 THE COURT: What's the name?

2 JUROR ROBERT REED: Ron Gregg.

3 MR. EVANS: Ron Gregg.

4 THE COURT: Okay. And would those factors
5 influence you or affect you in being a fair and impartial
6 juror in this case?

7 JUROR ROBERT REED: No, sir.

8 THE COURT: Okay. Thank you.

9 Okay. Number 60. Miss Blakely, your brother is a
10 federal marshal; is that --

11 JUROR SHIRLEY BLAKELY: He works for the U.S.
12 Marshal.

13 THE COURT: Works for them. Have you got any
14 other relatives in law enforcement?

15 JUROR SHIRLEY BLAKELY: My brother-in-law, who
16 is Robert Tompkins, who is deceased.

17 THE COURT: Former sheriff here.

18 JUROR SHIRLEY BLAKELY: Yes.

19 THE COURT: And would those factors influence
20 you or affect you in being a fair and impartial juror in
21 this case?

22 JUROR SHIRLEY BLAKELY: No, sir.

23 THE COURT: Okay. Thank you.

24 Then Number 64. Mr. Groves, and you're a police
25 officer in Kosciusko.

26 JUROR DANNY GROVES: Yes, sir.

27 THE COURT: And you got any other association
28 with law enforcement as far as kinships go?

29 JUROR DANNY GROVES: I got Charles Rhodes,

1 through marriage, a retired stated trooper?

2 THE COURT: Okay. And would the fact that you
3 are in law enforcement affect you in any way in being a
4 fair and impartial juror in this case?

5 JUROR DANNY GROVES: No, sir.

6 THE COURT: And if you were to rule against the
7 prosecution and had to later see them, would you feel you
8 owed them an explanation or feel ill at ease because of
9 the verdict that had been rendered?

10 JUROR DANNY GROVES: No, sir.

11 THE COURT: Okay. Thank you.

12 Mr. Amason, who is --

13 JUROR WALTER AMASON: My brother was a deputy
14 sheriff here in Montgomery County.

15 THE COURT: Glenn.

16 JUROR WALTER AMASON: Glenn.

17 THE COURT: And would that affect you in any
18 way in being a fair and impartial juror in this case?

19 JUROR WALTER AMASON: No, sir.

20 THE COURT: Okay. Thank you.

21 Then Miss Barnes, you've got a relative in Grenada
22 that is a police officer; is that correct?

23 JUROR ESSIE BARNES: Yes.

24 THE COURT: And who is that?

25 JUROR ESSIE BARNES: Hickory Ben is my nephew.

26 THE COURT: What is -- what is the name?

27 JUROR ESSIE BARNES: Hickory Ben.

28 THE COURT: Okay.

29 JUROR ESSIE BARNES: Nephew.

1 THE COURT: Nephew. And would that influence
2 you or affect you in any way in being a fair juror in
3 this case?

4 JUROR ESSIE BARNES: I'm not sure.

5 THE COURT: So you've got some doubts about
6 whether you could be a fair juror because of your nephew
7 in law enforcement.

8 JUROR ESSIE BARNES: I am.

9 THE COURT: Okay. Thank you.

10 Seventy-one. Miss Haynes, and who is that you are
11 related --

12 JUROR PATRICIA HAYNES: I have a nephew by
13 marriage that's a Duck Hill police, Kevin Able.

14 THE COURT: And would that be a factor or
15 influence you at all in being a fair juror in this case?

16 JUROR PATRICIA HAYNES: No, sir.

17 THE COURT: Okay. Thank you.

18 And Mr. Turnage, Number 82, you're related to Earl
19 Campbell, a law enforcement officer in Duck Hill.

20 JUROR MARIO TURNAGE: He is also in the
21 sheriff's department.

22 THE COURT: Works in the sheriff's department
23 too.

24 JUROR MARIO TURNAGE: Yes, sir.

25 THE COURT: Here in the county. And would that
26 influence you or affect you in any way in being a fair
27 and impartial juror?

28 JUROR MARIO TURNAGE: No.

29 THE COURT: And how are you related to Mr.

1 Campbell?

2 JUROR MARIO TURNAGE: First cousin.

3 THE COURT: First cousin.

4 And Mr. Biggers, who is it you are related to?

5 JUROR WILLIAM BIGGERS: Father police chief
6 here in Winona.

7 THE COURT: And would that be a factor or
8 influence you in being a fair juror?

9 JUROR WILLIAM BIGGERS: Yes, sir. He worked
10 with one of the victim's fathers.

11 THE COURT: Okay. And what was your father's
12 name?

13 JUROR WILLIAM BIGGERS: William Dillard
14 Biggers, Sr.

15 THE COURT: Thank you. You can be seated.

16 Number 84. Miss Young, and who is it that is in law
17 enforcement?

18 JUROR JOSSIE YOUNG: Michael Gross.

19 THE COURT: And how are you related to him?

20 JUROR JOSSIE YOUNG: Second cousin.

21 THE COURT: And for the record, where does he
22 serve in law enforcement?

23 JUROR JOSSIE YOUNG: Police.

24 THE COURT: Here in Winona; right?

25 JUROR JOSSIE YOUNG: Winona.

26 THE COURT: And would that influence you or
27 affect you in being a fair and impartial juror in this
28 case?

29 JUROR JOSSIE YOUNG: No, sir.

1 THE COURT: Okay. Thank you.

2 And Number 87. Miss Bell, and your husband is
3 former reserve deputy and police here in the county, in
4 the city; is that correct?

5 JUROR JO BELL: Yes.

6 THE COURT: And would that affect you in any
7 way in being a fair and impartial juror in this case?

8 JUROR JO BELL: No, sir.

9 THE COURT: Okay. Thank you.

10 Number 90. Mr. Blaylock, your mother worked for the
11 Winona Police Department as a clerk; is that correct?

12 JUROR DAVID BLAYLOCK: Still does. Yes, sir.

13 THE COURT: Still does. And would that
14 influence you or affect you in being a fair and impartial
15 juror in this case?

16 JUROR DAVID BLAYLOCK: No, sir.

17 THE COURT: Okay. Thank you.

18 And Mr. Matthews, you are related to the sheriff.

19 JUROR HARLEY MATTHEWS: Yes, sir.

20 THE COURT: And how are you related?

21 JUROR HARLEY MATTHEWS: Brother-in-law.

22 THE COURT: Would that affect you in any way or
23 influence you in being a fair and impartial juror in this
24 case?

25 JUROR HARLEY MATTHEWS: No, sir.

26 THE COURT: Okay. Thank you.

27 And Miss Hodges, you are related to Jimmy Holly; is
28 that correct?

29 JUROR SALLIE HODGES: Right.

1 THE COURT: With the state trooper.

2 JUROR SALLIE HODGES: Right.

3 THE COURT: And how are you related? Cousin?

4 JUROR SALLIE HODGES: First cousin.

5 THE COURT: First cousin. Would that influence
6 you or affect you in being a fair and impartial juror in
7 this case?

8 JUROR SALLIE HODGES: No. My husband is also a
9 first cousin to Johnny and David Johnson.

10 THE COURT: And would those factors influence
11 you at all?

12 JUROR SALLIE HODGES: (Shook head.)

13 THE COURT: Okay. Thank you.

14 And Miss Corder, who is it you are related to?

15 JUROR DIANNE CORDER: Sheriff Yates is only
16 like, maybe, a fourth cousin of mine.

17 THE COURT: And would that influence you in any
18 way in being a fair and impartial juror in this case?

19 JUROR DIANNE CORDER: Absolutely not.

20 THE COURT: Okay. Thank you.

21 Miss Boyle, your brother-in-law is a sheriff's
22 deputy; is that...

23 JUROR MARTHA BOYLE: He was in Tupelo and a
24 city cop in Grenada.

25 THE COURT: He's -- excuse me.

26 JUROR MARTHA BOYLE: He was a city cop in
27 Grenada and a deputy in Tupelo.

28 THE COURT: In Tupelo. And is he out of law
29 enforcement now?

1 JUROR MARTHA BOYLE: I think he works for the
2 capital in Jackson.

3 THE COURT: Okay. And would those factors
4 influence you or affect you in being a fair juror in this
5 case?

6 JUROR MARTHA BOYLE: No.

7 THE COURT: Okay. Thank you.

8 Miss Butts, who is it you are related to?

9 JURY MARY BUTTS: Former police officer.
10 Marvae Butts.

11 THE COURT: What was his first name?

12 JURY MARY BUTTS: Marvae Butts.

13 THE COURT: Did he work here in Winona?

14 JURY MARY BUTTS: City police officer.

15 THE COURT: Would that influence you in any way
16 in being a fair and impartial juror in this case?

17 JURY MARY BUTTS: No, sir.

18 THE COURT: Okay. Thank you.

19 Mr. Ward, you formerly served in Grenada Police
20 Department; is that correct?

21 JUROR DENNIS WARD: Yes, sir.

22 THE COURT: And did you -- and for Holmes
23 Community College.

24 JUROR DENNIS WARD: Yes, sir.

25 THE COURT: And would those factors influence
26 you or affect you in any way in being a fair and
27 impartial juror in this case?

28 JUROR DENNIS WARD: No, sir.

29 THE COURT: Okay. Thank you.

1 And Miss Lancaster, who is it you are related to?

2 JUROR ANGELA LANCASTER: I have a first cousin
3 that is on the police force in Duck Hill, Kevin Able.

4 THE COURT: And would that influence you or
5 affect you in being a fair and impartial juror in this
6 case?

7 JUROR ANGELA LANCASTER: No, sir.

8 THE COURT: Okay. Thank you.

9 Number 112. Miss Clay, you are related to Jessie
10 Liddell, retired trooper; is that correct?

11 JUROR SHEILA CLAY: Yes, sir.

12 THE COURT: And how are you related to him?

13 JUROR SHEILA CLAY: Uncle.

14 THE COURT: And would that be a factor or
15 influence you at all in being a fair and impartial juror
16 in this case?

17 JUROR SHEILA CLAY: No, sir.

18 THE COURT: Okay. Thank you.

19 Mr. Butts, you are related to Marion Butts, Winona
20 police department; is that --

21 JUROR LEWIS BUTTS: Marvae Butts.

22 THE COURT: Marvae. Okay.

23 JUROR LEWIS BUTTS: Former, former police
24 officer.

25 THE COURT: And would that affect you in any
26 way in being a fair juror in this case?

27 JUROR LEWIS BUTTS: I don't think so.

28 THE COURT: Any doubt in your mind?

29 JUROR LEWIS BUTTS: I don't think so.

1 THE COURT: No. Any doubt? I mean I --

2 JUROR LEWIS BUTTS: Not sure.

3 THE COURT: So you are saying it would not
4 affect you.

5 JUROR LEWIS BUTTS: I'm not sure.

6 THE COURT: So you've got some doubts then.

7 JUROR LEWIS BUTTS: (Nodded.)

8 THE COURT: Okay. Mr. Woods, Number 118,
9 Anthony Austin, former Winona police. Is that --

10 JUROR NICHOLAS WOODS: Correct.

11 THE COURT: And how are you kin to him?

12 JUROR NICHOLAS WOODS: Cousin by marriage.

13 THE COURT: Would that influence you or be a
14 factor in you being a fair juror in this case?

15 JUROR NICHOLAS WOODS: No.

16 THE COURT: Okay. Thank you.

17 And Mr. Roberts, who was in your family that was in
18 law enforcement?

19 JUROR BOBBY ROBERTS: My step-father. He was
20 former sheriff of Montgomery County.

21 THE COURT: Who was that?

22 JUROR BOBBY ROBERTS: Bill Thornburg.

23 THE COURT: Mr. Thornburg, I think, is going to
24 be a witness in this case. And would that affect you
25 knowing that he is a witness in this case? Would that
26 affect you in being a fair juror in this case?

27 JUROR BOBBY ROBERTS: No, it would not.

28 THE COURT: And would you just consider his
29 testimony along with everybody else's? And the fact that

1 he is your step-father, would that play any role in you
2 being a fair juror in this case?

3 JUROR BOBBY ROBERTS: No.

4 THE COURT: Okay. Thank you.

5 And Mr. Hemphill, who are you related to?

6 JUROR BENJAMIN HEMPHILL: Calvin. Calvin
7 Young, Jr.

8 THE COURT: And how are you related to him?

9 JUROR BENJAMIN HEMPHILL: Cousin.

10 THE COURT: Do you know what degree of kinship?

11 JUROR BENJAMIN HEMPHILL: First.

12 THE COURT: First cousin.

13 JUROR BENJAMIN HEMPHILL: Right.

14 THE COURT: And would that affect you in being
15 a fair and impartial juror in this case?

16 JUROR BENJAMIN HEMPHILL: No, sir.

17 THE COURT: Okay. Thank you.

18 Miss Yates, your husband is, is Gary Yates; is that
19 correct?

20 JUROR ESSIE YATES: Yes, sir.

21 THE COURT: And he served in law enforcement
22 for about 10 years in Winona; is that correct?

23 JUROR ESSIE YATES: Correct.

24 THE COURT: And would that influence you or be
25 a factor in you being a fair and impartial juror in this
26 case?

27 JUROR ESSIE YATES: Yes.

28 THE COURT: It would. So you feel like because
29 you are married to a former officer you couldn't be fair.

1 JUROR ESSIE YATES: I just say no, I couldn't
2 be fair.

3 THE COURT: Okay. Thank you.

4 Mr. Vance, who is it you are related to?

5 JUROR JIMMY VANCE: Pardon.

6 THE COURT: Who are you related to that is in
7 law enforcement?

8 JUROR JIMMY VANCE: I have a stepson in Grenada
9 that is in law enforcement.

10 THE COURT: Now, who is it? How are you kin?

11 JUROR JIMMY VANCE: My stepson.

12 THE COURT: Stepson. Okay. And that's in
13 Grenada.

14 JUROR JIMMY VANCE: Grenada.

15 THE COURT: And would that be a factor or
16 influence you at all in being a fair juror?

17 JUROR JIMMY VANCE: No, sir, that wouldn't.
18 But I also served under Sheriff Robert Tompkins.

19 THE COURT: Done what now?

20 JUROR JIMMY VANCE: Served under Sheriff Robert
21 Tompkins.

22 THE COURT: Okay. You were a deputy yourself.

23 JUROR JIMMY VANCE: Yes, sir.

24 THE COURT: And would that influence you or
25 affect you in being a fair juror in this case?

26 JUROR JIMMY VANCE: Yes, sir.

27 THE COURT: Okay. Thank you.

28 Okay. Ma'am, what is your...

29 JUROR JAMITA SMITH: 147.

1 THE COURT: Okay. 147. Then I'll get to 149.
2 Who are you related to?

3 JUROR JAMITA SMITH: Johnny Hargrove.

4 THE COURT: And how are you kin to the chief
5 here?

6 JUROR JAMITA SMITH: He is my cousin.

7 THE COURT: Cousin.

8 JUROR JAMITA SMITH: Yes.

9 THE COURT: And I think he is supposed to be a
10 witness in this case. Would the fact that you're a
11 cousin of Chief Hargrove, would that be a factor or
12 influence you at all in being a fair juror?

13 JUROR JAMITA SMITH: No, sir.

14 THE COURT: And you will just consider his
15 testimony along with anybody else's and --

16 JUROR JAMITA SMITH: Yes, sir, I would be fair.

17 THE COURT: Ma'am.

18 JUROR JAMITA SMITH: I said I will be fair and
19 listen.

20 THE COURT: Okay. Thank you.

21 And Miss Crawford, you are also a cousin of the
22 chief.

23 JUROR EMMA CRAWFORD: First cousin. Brother
24 and sister children.

25 THE COURT: First cousin. Say that...

26 JUROR EMMA CRAWFORD: First cousin.

27 THE COURT: Okay.

28 JUROR EMMA CRAWFORD: Brother and sister
29 children.

1 THE COURT: Okay. And would that influence
2 you?

3 JUROR EMMA CRAWFORD: I, I really can't say.
4 It might and it might not. I really can't say.

5 THE COURT: So you have got a doubt in your own
6 mind about whether you could be a fair and impartial
7 juror.

8 JUROR EMMA CRAWFORD: Yes.

9 THE COURT: And as I told this other lady, I
10 think Chief Hargrove is going to be a witness in this
11 case. So would you be able to just consider his
12 testimony like you would anybody else's, or would you
13 give his testimony greater weight or credibility because
14 you are related?

15 JUROR EMMA CRAWFORD: Well, I can't say. I
16 really can't say.

17 THE COURT: Okay.

18 JUROR EMMA CRAWFORD: I can't say.

19 THE COURT: But you do have some doubts about
20 it.

21 JUROR EMMA CRAWFORD: I do.

22 THE COURT: Okay. Mr. Taylor, I believe you
23 said you had some uncles that were state troopers; is
24 that correct?

25 JUROR MICHAEL TAYLOR: Yeah. One state
26 trooper. One parole officer.

27 THE COURT: And who are they?

28 JUROR MICHAEL TAYLOR: James Hunter Williams,
29 highway patrol. And Ellis Bevis, parole officer.

1 THE COURT: And Mr. Taylor, would those factors
2 influence you or affect you in being a fair and impartial
3 juror in this case?

4 JUROR MICHAEL TAYLOR: No, sir.

5 THE COURT: Okay. Thank you.

6 And 137. Miss Malone, you are -- your uncle, Floyd
7 Wolfe, was a constable in Grenada.

8 JUROR LINDA MALONE: Right.

9 THE COURT: Is that correct?

10 JUROR LINDA MALONE: Right.

11 THE COURT: And would that influence you or
12 affect you in being a fair and impartial juror in this
13 case?

14 JUROR LINDA MALONE: No.

15 THE COURT: Okay. Thank you.

16 And Miss Dumas, your son is a law officer in
17 Grenada; is that correct?

18 JUROR RUBY DUMAS: Not anymore. He is a
19 policeman for the airport in Memphis.

20 THE COURT: For who?

21 JUROR RUBY DUMAS: For the airport --

22 THE COURT: Okay.

23 JUROR RUBY DUMAS: -- in Memphis.

24 THE COURT: And, and where does he work? What
25 airport again?

26 JUROR RUBY DUMAS: Memphis.

27 THE COURT: Memphis. Okay. And would that
28 influence you or be a factor in you being a fair and
29 impartial juror in this case?

1 JUROR RUBY DUMAS: No.

2 THE COURT: Okay. Thank you.

3 And then Mr. Jackson, Number 141, your father is
4 former law enforcement officer in Grenada; is that
5 correct?

6 JUROR ARTHUR JACKSON: Yes, sir.

7 THE COURT: And would that be an influence or
8 affect you in any way being a fair juror in this case?

9 JUROR ARTHUR JACKSON: No, sir.

10 THE COURT: Okay. Thank you.

11 And Miss Williams, Number 142, your father is a law
12 officer in Montgomery County.

13 JUROR TAMMY WILLIAMS: State trooper.

14 THE COURT: Who is that?

15 JUROR TAMMY WILLIAMS: James Taylor Williams.

16 THE COURT: Would that influence you or affect
17 you in being a fair and impartial juror in this case?

18 JUROR TAMMY WILLIAMS: Yes, sir.

19 THE COURT: Number 143. Mr. Campbell, former
20 sheriff here was your brother; is that correct?

21 JUROR DEWEY CAMPBELL: Right.

22 THE COURT: And would that influence you or
23 affect you in being a fair and impartial juror in this
24 case?

25 JUROR DEWEY CAMPBELL: Yes, sir.

26 THE COURT: It would affect you. Okay. Thank
27 you.

28 145. Mr. Herrod, your son was Winona police
29 department and now deputy sheriff; is that correct?

1 JUROR DANNY HEROD: Yes, sir.

2 THE COURT: And who is that?

3 JUROR DANNY HEROD: Dan Herrod.

4 THE COURT: And would that influence you or
5 affect you in any way in being a fair and impartial juror
6 in this case?

7 JUROR DANNY HEROD: Yes, it would.

8 THE COURT: And Number 153. Miss Butts, who is
9 it that you are related to in law enforcement?

10 JUROR NORA BUTTS: Former police department
11 worker, Marvae Butts.

12 THE COURT: Was that here in Winona?

13 JUROR NORA BUTTS: Correct.

14 THE COURT: And how were you related to Mr.
15 Butts?

16 JUROR NORA BUTTS: Brother-in-law.

17 THE COURT: Would that be a factor or influence
18 you at all in being a fair juror in this case?

19 JUROR NORA BUTTS: It would not.

20 THE COURT: Okay. Thank you.

21 Mr. Tompkins, how -- what is that relationship?

22 JUROR DANNY TOMPKINS: Sir.

23 THE COURT: Who are you related to that was in
24 law enforcement?

25 JUROR DANNY TOMPKINS: I am.

26 THE COURT: Oh, okay. You are. I see now.
27 You are a game warden. Were you kin to Robert Tompkins?

28 JUROR DANNY TOMPKINS: Yes, sir.

29 THE COURT: How were you and Robert kin?

1 JUROR DANNY TOMPKINS: First cousins.

2 THE COURT: Would that influence you or affect
3 you, either -- any of these relationships in law
4 enforcement, that be a factor in any way in you being a
5 fair and impartial juror?

6 JUROR DANNY TOMPKINS: No.

7 THE COURT: And Number 158. Mr. Moore, you are
8 kin to Emory Moore, who was -- used to be a Duck Hill
9 officer; is that correct?

10 JUROR GEORGE MOORE: That's correct.

11 THE COURT: And how are you kin to Emory Moore?

12 JUROR GEORGE MOORE: My father, sir.

13 THE COURT: And would that be a factor or
14 influence you at all in being a fair and impartial juror
15 in this case?

16 JUROR GEORGE MOORE: Yes, it would.

17 THE COURT: And Number 160. Miss Moore, who
18 are you related to?

19 JUROR JEANETTE MOORE: To my father-in-law,
20 Emory Moore. He is my father-in-law.

21 THE COURT: So were you and George --

22 JUROR JEANETTE MOORE: We are husband and wife.

23 THE COURT: Okay. And would that influence you
24 or be a factor in you being a fair and impartial juror,
25 the fact that your father-in-law was, was Emory Moore.

26 JUROR JEANETTE MOORE: No, sir.

27 THE COURT: Okay. Thank you.

28 JUROR JEANETTE MOORE: You're welcome.

29 THE COURT: Ladies and gentlemen, this would be

1 a good time -- I'm sorry.

2 163. Miss McGowan, who is it that you are related
3 to?

4 JUROR BEVERLY MCGOWAN: My sister. She is a
5 retired police officer in Houston, Texas.

6 THE COURT: Would that factor influence you at
7 all in being a fair juror?

8 JUROR BEVERLY MCGOWAN: No, sir.

9 THE COURT: It would not.

10 Okay. Thank you.

11 What I was going to -- yes, Number 15.

12 JUROR RONALD BENNETT: I didn't realize you
13 were going to second cousins. I have a second cousin.

14 THE COURT: And who is that?

15 JUROR RONALD BENNETT: Johnny Grantham.

16 THE COURT: And you and Johnny are second
17 cousins.

18 JUROR RONALD BENNETT: Second cousin.

19 THE COURT: Would that influence you or affect
20 you in being a fair juror in this case?

21 JUROR RONALD BENNETT: No, sir.

22 THE COURT: Okay. Thank you.

23 And Mr. Bennett just spoke up to illustrate a point
24 that I was about to make. Sometimes we will go on to a,
25 you know, a question down the line and suddenly you will
26 realize oh, I should have spoken up to a previous
27 question. Please always do that.

28 We want complete answers from all of you on all
29 questions. So even if we have moved on to something else

1 and you think about it and realize you should have spoken
2 up previously, please, raise that fan and do that.

3 Okay. Miss, Miss Boles, what, what was that that
4 you...

5 JUROR RUTHIE BOLES: Marcus Holman. I used to
6 be married in that family one time.

7 THE COURT: Married to who?

8 JUROR RUTHIE BOLES: To his uncle.

9 THE COURT: To whose uncle?

10 JUROR RUTHIE BOLES: Marcus Holman.

11 THE COURT: And is he --

12 JUROR RUTHIE BOLES: It has been a hundred
13 years ago.

14 THE COURT: Okay. And he is in law
15 enforcement; correct?

16 JUROR RUTHIE BOLES: (Nodded.)

17 THE COURT: And would that be a factor at all
18 in you being a fair juror? Would that influence you at
19 all?

20 JUROR RUTHIE BOLES: No.

21 THE COURT: Okay. Thank you.

22 Miss Riddell. Number 3.

23 JUROR JENNIFER RIDDELL: I have a first cousin
24 that actually when I filled that out he was FBI, but he
25 was not. He is just Jackson police, but it wouldn't
26 affect my decision.

27 THE COURT: Okay. Thank you.

28 And Number 24.

29 JUROR JAMES DENDY: I have a very distant

1 cousin, Bobby Hardin, Batesville P.D.

2 THE COURT: In Batesville.

3 JUROR JAMES DENDY: (Nodded.)

4 THE COURT: And would that influence you or be
5 a factor in you being a fair juror?

6 JUROR JAMES DENDY: No, sir.

7 THE COURT: Okay. Thank you.

8 And Number 4. Mr. Forrest.

9 JUROR WILLIE FORREST: Marcus Hall.

10 THE COURT: And how are you kin?

11 JUROR WILLIE FORREST: Second cousin. Highway
12 patrol.

13 THE COURT: Would that factor influence you or
14 cause you in any way to -- affect you in any way in being
15 a fair juror?

16 JUROR WILLIE FORREST: No, it would not.

17 THE COURT: Okay. Thank you.

18 And Number 27. Mr. Sanders, what is that situation?
19 I mean Miss Sanders. I looked down at the wrong name.
20 What is that situation?

21 JUROR FRANCES SANDERS: Kevin Jones, Jr. First
22 cousin.

23 THE COURT: And would that influence you or be
24 a factor in you being a fair juror in this case?

25 JUROR FRANCES SANDERS: No.

26 THE COURT: Okay. Thank you.

27 And then Mr. Bailey.

28 JUROR WAYNE BAILEY: My sister, Linda King. I
29 think she is secretary to the federal prosecutor in

1 Oxford, but I'm not exactly sure what her job is.

2 THE COURT: Okay. And I believe you had
3 already said you're stepson to Mr. Able, who worked law
4 enforcement here.

5 Would the fact that your sister works in that
6 capacity influence you at all in being a fair juror?

7 JUROR WAYNE BAILEY: No, sir.

8 THE COURT: Okay. Thank you.

9 Miss Braswell, what is that situation?

10 JUROR BURNADETTE BRASWELL: Robert Tompkins was
11 my fourth or fifth cousin. And my husband has a nephew
12 that is in some law enforcement in Grenada, but I don't
13 know what.

14 THE COURT: And would those factors influence
15 you at all in being a fair juror in this case?

16 JUROR BURNADETTE BRASWELL: No, sir.

17 THE COURT: Okay. Thank you.

18 And Number 57. Mr. Colbert, what is that situation?

19 JUROR JAMES COLBERT: Brother-in-law worked for
20 Winona Police Department, Marvin Halfacre, for about
21 three months.

22 THE COURT: Would that influence you or affect
23 you in being a fair juror in this case?

24 JUROR JAMES COLBERT: No, sir.

25 THE COURT: Okay. Thank you.

26 And Number 62. Mr. King.

27 JUROR JUSTIN KING: Mr. David Johnson and John
28 Johnson, distant cousins.

29 THE COURT: And would that influence you in

1 being a fair juror in this case?

2 JUROR JUSTIN KING: (Shook head.)

3 THE COURT: Okay. Thank you.

4 And 63. Mr. Miller.

5 JUROR DAVID MILLER: First cousin. Grenada
6 police.

7 THE COURT: And who is that?

8 JUROR DAVID MILLER: Jerry Miller.

9 THE COURT: Would that influence you or affect
10 you at all in being a fair juror?

11 JUROR DAVID MILLER: (Shook head.)

12 THE COURT: Okay. Thank you.

13 Number 79.

14 JUROR JOHN AUSTIN: My grandfather is retired
15 state trooper.

16 THE COURT: Would that influence you or affect
17 you in being a fair juror in this case?

18 JUROR JOHN AUSTIN: No, sir.

19 THE COURT: Okay. Thank you.

20 Number 126. Miss Caffey, what is that situation?

21 JUROR LOUISE CAFFEY: I have three second
22 cousins in Jackson who are police officers.

23 THE COURT: Three what now?

24 JUROR LOUISE CAFFEY: Three second cousins.

25 THE COURT: Three second cousins.

26 JUROR LOUISE CAFFEY: Yes.

27 THE COURT: And would those factors influence
28 you or affect you in being a fair juror in this case?

29 JUROR LOUISE CAFFEY: Not at all.

1 THE COURT: Okay. Thank you.

2 Mr. Hathcock, what is that situation?

3 JUROR MICHAEL HATHCOCK: Two retired first
4 cousins. Retired highway patrolmen. Holmes County.

5 THE COURT: Would that influence you at all in
6 being a fair juror in this case?

7 JUROR MICHAEL HATHCOCK: No, sir.

8 THE COURT: Okay. Thank you.

9 And Miss Thompson.

10 JUROR EULANDIA THOMPSON: I have a second
11 cousin with Montgomery County Sheriff's Department,
12 Calvin Young, Jr.

13 THE COURT: Would that influence you or be a
14 factor in you being a fair juror in this case?

15 JUROR EULANDIA THOMPSON: No, sir.

16 THE COURT: Thank you.

17 And Number 142.

18 JUROR TAMMY WILLIAMS: My uncle is a
19 corrections officer.

20 THE COURT: And that is Mr. Bevis.

21 JUROR TAMMY WILLIAMS: Yes.

22 THE COURT: And I believe you have already said
23 because your father is a trooper, you don't feel you
24 could be fair and impartial; is that correct?

25 JUROR TAMMY WILLIAMS: Yes, sir.

26 THE COURT: Okay. Thank you.

27 And then Number 149. Miss Crawford.

28 JUROR EMMA CRAWFORD: Anthony Austin is my
29 second cousin.

1 THE COURT: Who?

2 JUROR EMMA CRAWFORD: Anthony Austin.

3 THE COURT: And for the record, how -- where,
4 where is he in law enforcement?

5 JUROR EMMA CRAWFORD: Winona Police Department.

6 THE COURT: And he is your...

7 JUROR EMMA CRAWFORD: Second cousin.

8 THE COURT: Second cousin. And, and I know you
9 have already said you got a doubt in your mind because of
10 Chief Hargrove. How about Mr. Austin's involvement in
11 law enforcement? Would that also affect you --

12 JUROR EMMA CRAWFORD: Yes.

13 THE COURT: -- in being a fair and impartial
14 juror?

15 JUROR EMMA CRAWFORD: Yes.

16 THE COURT: Or do you have some doubts in your
17 mind whether you can be fair because of that?

18 JUROR EMMA CRAWFORD: Yeah, because I, I would
19 be concerned about their safety. So...

20 THE COURT: So you feel like you couldn't be a
21 fair and impartial juror because of that.

22 JUROR EMMA CRAWFORD: Yes.

23 THE COURT: Okay. Thank you.

24 And Mr. Costilow.

25 JUROR BENNY COSTILOW: I have a first cousin
26 that was sheriff here in Montgomery County.

27 THE COURT: Is that Billy?

28 JUROR BENNY COSTILOW: That's Billy.

29 THE COURT: And would that influence you or

1 affect you in being a fair and impartial juror in this
2 case?

3 JUROR BENNY COSTILOW: No, sir.

4 THE COURT: Okay. Thank you.

5 And Number 95. Miss Hodges, what is --

6 JUROR SALLIE HODGES: I'm related by marriage
7 to Billy Costilow, former sheriff.

8 THE COURT: And would that influence you or
9 affect you in being a fair juror in this case?

10 JUROR SALLIE HODGES: No.

11 THE COURT: Okay. Thank you.

12 Now, ladies and gentlemen, this case is for trial
13 today because an indictment was issued by the grand jury.
14 An indictment is just a formal charge that gets a case
15 here to you for trial. An indictment is not an
16 indication of the guilt or innocence of the person on
17 trial. It is just, as I say, the process that is used to
18 get a case for trial.

19 So I want to know -- and, and let me just say you
20 are to disregard the fact that, that there was an
21 indictment and base your decision only on the evidence
22 presented here in court and not on the fact that there
23 was an indictment issued.

24 So is there any one of you that could not disregard
25 the fact that there was an indictment and base your
26 decision only on the evidence presented here in court?
27 Is there any one of you that could not disregard the fact
28 there was an indictment and base your decision only on
29 the evidence?

1 And I take it by your silence you are each assuring
2 me that you will only base your decision on the evidence
3 and not on the fact there was an indictment.

4 Now, the burden of proof in this case, as it is in
5 all criminal cases, is they have to prove the defendant
6 guilty beyond a reasonable doubt. The defendant is not
7 required to prove his innocence. In fact, the burden of
8 proof never shifts to him to prove anything at all.

9 So is there any one of you that disagree with what
10 the burden of proof is or think it should be either
11 greater than beyond a reasonable doubt or lesser than
12 beyond a reasonable doubt?

13 I take it each of you are assuring me that you do
14 understand the burden of proof and understand that it is
15 on the State of Mississippi.

16 I'm going to go through now with you the nature of
17 the charge. Curtis Giovanni Flowers is charged in a
18 four-count indictment charged with capital murder. It is
19 charged that on or about the 16th day of July, 1996, he
20 did willfully, unlawfully, feloniously and either with or
21 without deliberate design to effect death, kill and
22 murder Bertha Tardy, Robert L. Golden, Carmine Rigby and
23 Derrick Stewart, all human beings, by shooting them with
24 a pistol, while engaged in the commission of a felony
25 crime of armed robbery. So again, that is the charge
26 today Mr. Flowers stands before the Court on, is four
27 counts of capital murder.

28 So I'm going to ask you now a few questions about
29 the individuals involved. Any of you related by blood or

1 by marriage to Bertha Tardy? If you are, if you will,
2 please, stand.

3 And Mr. Bennett, how are you related to Miss Tardy?

4 JUROR WILLIAM BENNETT: Second cousin with Miss
5 Tardy.

6 THE COURT: Second cousin. And would that
7 influence you or be a factor in you being a fair and
8 impartial juror in this case?

9 JUROR WILLIAM BENNETT: Yes, it would.

10 THE COURT: So -- okay. Thank you.

11 And Number 49. Mr. Reed, how were you kin to Miss
12 Tardy?

13 JUROR ROBERT REED: My wife's first -- was my
14 wife's first cousin.

15 THE COURT: Would that influence you or affect
16 you in being a fair and impartial juror in this case?

17 JUROR ROBERT REED: Yes, sir.

18 THE COURT: Okay. Thank you.

19 And Mr. Hudson, how were you related to Miss Tardy?

20 JUROR JAMIE HUDSON: Bertha's mother was
21 married to my cousin, Sam Wofford.

22 THE COURT: Her mother was married to...

23 JUROR JAMIE HUDSON: My cousin.

24 THE COURT: Would that be a factor or influence
25 you at all in being a fair juror in this case?

26 JUROR JAMIE HUDSON: No, sir.

27 THE COURT: Okay. Thank you.

28 And Number 117. Mr. Bennett, how is that?

29 JUROR JOHN BENNETT: Second cousin.

1 THE COURT: To Bertha Tardy. Would that
2 influence you or be a factor in you being a fair and
3 impartial juror in this case?

4 JUROR JOHN BENNETT: No, sir.

5 THE COURT: And you could lay that aside and
6 not have that be a factor at all in you being a fair
7 juror; is that correct?

8 JUROR JOHN BENNETT: (Nodded.)

9 THE COURT: Okay. Thank you.

10 I want to know how many of you knew Bertha Tardy now
11 that I've got through with people that were related to
12 her. But how many of you just knew who she was, if you
13 will stand now.

14 Mr. Pope, how did you know Miss Tardy?

15 JUROR JAMES POPE: She was my neighbor, and I
16 also traded down there at the store.

17 THE COURT: And would that influence you or be
18 a factor at all in you being a fair and impartial juror
19 in this case?

20 JUROR JAMES POPE: No, sir.

21 THE COURT: So it would not affect you or
22 bother you serving on a jury knowing that she was your
23 neighbor and you used to work -- do business at the
24 store; is that correct?

25 JUROR JAMES POPE: Right.

26 THE COURT: Okay. Thank you.

27 And Number 14. Mr. Moorehead, how did you know Miss
28 Tardy?

29 JUROR ROBERT MOOREHEAD: I done business with

1 her. And her daughter lives right across the street from
2 me. She is my neighbor.

3 THE COURT: And who is her daughter?

4 JUROR ROBERT MOOREHEAD: Roxanne.

5 THE COURT: What is her last name?

6 JUROR ROBERT MOOREHEAD: She is married to
7 Frank Ballard.

8 THE COURT: So this is Miss Ballard --

9 JUROR ROBERT MOOREHEAD: Miss Ballard.

10 Correct.

11 THE COURT: -- that you live across the street
12 from.

13 JUROR ROBERT MOOREHEAD: Correct.

14 THE COURT: And would these factors influence
15 you or affect you in being a fair and impartial juror in
16 this case?

17 JUROR ROBERT MOOREHEAD: Yes.

18 THE COURT: Okay. Thank you.

19 And Number 13. Miss Holland, how did you know Miss
20 Tardy?

21 JUROR TINA HOLLAND: I just knew she owned the
22 furniture store, ran the furniture store.

23 THE COURT: And would that influence you or be
24 a factor in you being a fair and impartial juror in this
25 case?

26 JUROR TINA HOLLAND: No, sir.

27 THE COURT: Okay. Thank you.

28 And Mr. Bennett, you knew Miss Tardy.

29 JUROR RONALD BENNETT: Yes. I just traded with

1 her on occasion.

2 THE COURT: Would that influence you or affect
3 you in being a fair and impartial juror in this case?

4 JUROR RONALD BENNETT: No.

5 THE COURT: It would not.

6 JUROR RONALD BENNETT: No.

7 THE COURT: Okay. Thank you.

8 Number 21. Miss McNeer, and you knew Miss Tardy.

9 JUROR SHIRLEY MCNEER: I knew her for a number
10 of years as a fellow business person, and I also traded
11 with her on several occasions.

12 THE COURT: And would that influence you or be
13 a factor in you being a fair and impartial juror?

14 JUROR SHIRLEY MCNEER: No, sir.

15 THE COURT: Okay. Thank you.

16 And Miss Branch, you knew Miss Tardy.

17 JUROR LISA BRANCH: Yes, sir.

18 THE COURT: And how did you know her?

19 JUROR LISA BRANCH: Just business. I bought
20 furniture from Tardy's.

21 THE COURT: And would that be a influence or
22 factor in you being a fair and impartial juror in this?

23 JUROR LISA BRANCH: No, sir. No, sir.

24 THE COURT: Okay. Thank you.

25 And Number 30. Miss Ingram, how did you know Miss
26 Tardy?

27 JUROR REGINA INGRAM: I grew up in the church
28 that she attended and also traded with her.

29 THE COURT: And would those factors influence

1 you or affect you in being a fair and impartial juror in
2 this case?

3 JUROR REGINA INGRAM: Yes, sir.

4 THE COURT: Okay. Thank you.

5 And 31. Mr. Knox, how did you know Miss Tardy?

6 JUROR ORMAN KNOX: Purchasing furniture. And
7 her daughter and myself attended the same college.

8 THE COURT: Would that be the lady that was
9 just spoken of a minute ago?

10 JUROR ORMAN KNOX: Miss Ballard.

11 THE COURT: Miss Ballard. Would those factors
12 influence you or be a factor in you being a fair and
13 impartial juror in this case?

14 JUROR ORMAN KNOX: No, sir.

15 THE COURT: And I think Miss Ballard may be on
16 a potential witness list. If she testified in this case,
17 would that be a factor or influence you in being a fair
18 juror?

19 JUROR ORMAN KNOX: No, sir.

20 THE COURT: Okay. Thank you.

21 And Number 32. Miss Johnson, what is that
22 situation?

23 JUROR CINDY JOHNSON: I did not know Miss
24 Tardy. I know the Ballards through my son, eldest son,
25 who was in the same grade as their oldest child.

26 THE COURT: Would that be a factor or influence
27 you in being a fair juror in this case?

28 JUROR CINDY JOHNSON: No, sir.

29 THE COURT: Okay. Thank you.

1 Mr. Bibbs, you knew Miss Tardy; is that correct?

2 JUROR JAMES BIBBS: That's correct.

3 THE COURT: And how did you know her?

4 JUROR JAMES BIBBS: By doing business with her
5 down at the store.

6 THE COURT: And would that be a factor or
7 influence you in being a fair juror in this case?

8 JUROR JAMES BIBBS: No, sir.

9 THE COURT: Okay. Thank you.

10 And Number 36-A. Mr. Woods, how --

11 JUROR TERRY WOODS: Just doing business with
12 her, sir.

13 THE COURT: And would that influence you or be
14 a factor in you being a fair juror?

15 JUROR TERRY WOODS: No, sir.

16 THE COURT: Number 45. Miss Braswell.

17 JUROR BURNADETTE BRASWELL: I bought some
18 furniture from her.

19 THE COURT: And would that be a factor in you
20 being a fair and impartial juror?

21 JUROR BURNADETTE BRASWELL: No, sir.

22 THE COURT: Ladies and gentlemen, I think
23 before I get the rest of you, I see some of you are
24 probably needing a recess at this time. So we will
25 recess for 15 minutes. If you will, be back in here at
26 4:25.

27 During this recess and throughout the trial
28 proceedings, do not discuss this case with anyone or
29 among yourselves.

1 Also, you can't talk to any of the witnesses or the
2 attorneys or any parties involved in this case. If the
3 attorneys were to see you out in the hall or something,
4 they are going to walk right on by you. They are going
5 to ignore you. They are not doing that to offend you.
6 They are doing that because that is the court rules that
7 require them to do.

8 So we will be in recess. Look who you are sitting
9 next to and come back and sit in the same place after
10 this recess.

11 (AFTER A BREAK WAS TAKEN, PROCEEDINGS RESUMED IN OPEN
12 COURT. MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
13 CARTER AND THE DEFENDANT WERE PRESENT. PROCEEDINGS WERE AS
14 FOLLOWS:)

15 THE COURT: Ladies and gentlemen, Number 68 got
16 a call where her son had been in a car wreck, and I
17 allowed her to go check on him. And I asked her to be
18 back in the morning and -- if he is all right, to be back
19 in the morning and we can go through and catch her up on
20 the questions.

21 As we took the recess, there were a number of you
22 that had raised your hands advising that you knew Bertha
23 Tardy during her life. So those of you that we have not
24 gotten around to, if you will, please stand back up at
25 this time.

26 Okay. Miss Johnson, Number 47, you, you knew Miss
27 Tardy.

28 JUROR KAREN JOHNSON: Yes, sir. I frequently
29 shopped at Tardy's.

1 THE COURT: And would that influence you or
2 affect you in being a fair and impartial juror in this
3 case?

4 JUROR KAREN JOHNSON: No, sir.

5 THE COURT: Okay. Thank you.

6 And Number 50. Miss Rash, how did you know Miss
7 Tardy?

8 JUROR DYES RASH: I did business with her.

9 THE COURT: And would that influence you or be
10 a factor in you being a fair and impartial juror in this
11 case?

12 JUROR DYES RASH: No.

13 THE COURT: Okay. Thank you.

14 53. Miss Mitchell, how did you know Miss Tardy?

15 JUROR THERESA MITCHELL: At my previous job I
16 did dealer contracts with Tardy Furniture before and
17 after the murders. So I also went to high school with
18 Roxanne. We were in band together.

19 THE COURT: And would those factors influence
20 you or affect you in being a fair and impartial juror in
21 this case?

22 JUROR THERESA MITCHELL: Probably.

23 THE COURT: So you have got some doubts about
24 whether you could be fair because of that; is that
25 correct?

26 JUROR THERESA MITCHELL: Yes.

27 THE COURT: Okay. Thank you.

28 Number 55. Mr. White, what is that situation?

29 JUROR JOHN WHITE: She was my youth director

1 for several years at church.

2 THE COURT: And would that influence you or be
3 a factor in you being a fair and impartial juror?

4 JUROR JOHN WHITE: (Nodded.)

5 THE COURT: So you have got doubts in your own
6 mind about whether you could be fair or not because of
7 that.

8 JUROR JOHN WHITE: (Nodded.)

9 THE COURT: Okay. Thank you.

10 Number 60. Miss Blakely, how did you know Miss
11 Tardy?

12 JUROR SHIRLEY BLAKELY: I did business with
13 her.

14 THE COURT: At the store then.

15 JUROR SHIRLEY BLAKELY: Yes.

16 THE COURT: And would that influence you or be
17 a factor in you being a fair and impartial juror in this
18 case?

19 JUROR SHIRLEY BLAKELY: (Shook head.)

20 THE COURT: Okay. Thank you.

21 Number 79. Mr. Austin.

22 JUROR JOHN AUSTIN: Miss Tardy lived across the
23 street from my grandmother, and I know Roxanne Ballard
24 and her husband.

25 THE COURT: You knew -- know Miss Ballard.

26 JUROR JOHN AUSTIN: Yes, sir.

27 THE COURT: And would those factors influence
28 you or affect you in being a fair juror in this case?

29 JUROR JOHN AUSTIN: No, sir.

1 THE COURT: If Miss Ballard was a witness in
2 this case, would that affect you in any way?

3 JUROR JOHN AUSTIN: No, sir. No, sir.

4 THE COURT: Okay. Thank you.

5 Miss Butts, Number 80, you knew Miss Tardy.

6 JUROR JOYCE BUTTS: Yes, sir.

7 THE COURT: And how did you know her?

8 JUROR JOYCE BUTTS: I bought furniture from
9 her.

10 THE COURT: And would that influence you or be
11 a factor in you being a fair and impartial juror in this
12 case?

13 JUROR JOYCE BUTTS: No, sir.

14 THE COURT: Okay. Thank you.

15 And Mr. Turnage, how did you know Miss Tardy?

16 JUROR MARIO TURNAGE: From doing business with
17 her at the store.

18 THE COURT: And would that be a factor or
19 influence you in being a fair and impartial juror in this
20 case?

21 JUROR MARIO TURNAGE: No, it wouldn't.

22 THE COURT: Okay. Thank you.

23 And Mr. Biggers, how, how do you know...

24 JUROR WILLIAM BIGGERS: Neighbor for about 12
25 years and a family friend.

26 THE COURT: And would that influence you or be
27 a factor in you being a fair and impartial juror?

28 JUROR WILLIAM BIGGERS: Yes, sir.

29 THE COURT: Okay. Thank you.

1 I see Number 84. Miss Young, you knew Miss Tardy.

2 JUROR JOSSIE YOUNG: Yes, sir.

3 THE COURT: And how did you know her?

4 JUROR JOSSIE YOUNG: Bought furniture there.

5 THE COURT: And would that influence you or
6 affect you in any way in being a fair and impartial juror
7 in this case?

8 JUROR JOSSIE YOUNG: I don't think so.

9 THE COURT: You got any doubt in your mind
10 about it?

11 JUROR JOSSIE YOUNG: I might.

12 THE COURT: So you have got some doubts about
13 whether you could be fair because of knowing Miss Tardy;
14 is that...

15 JUROR JOSSIE YOUNG: (Nodded.)

16 THE COURT: Okay. Thank you.

17 Number 85. Okay. Mr. Carwile.

18 JUROR MARK CARWILE: Her daughter, Roxanne, was
19 a family friend of ours.

20 THE COURT: And would that influence you or
21 affect you in any way in being a fair and impartial
22 juror?

23 JUROR MARK CARWILE: Not at all.

24 THE COURT: Okay. And if Miss Ballard
25 testified in this case, would you consider her testimony
26 or give it greater weight or credibility than somebody
27 you did not know?

28 JUROR MARK CARWILE: (Shook head.)

29 THE COURT: Okay. Thank you.

1 Miss Ramsey, you knew Miss Tardy.

2 JUROR PEGGY RAMSEY: Yes, I did.

3 THE COURT: And how did you know her?

4 JUROR PEGGY RAMSEY: She and I attended school
5 together.

6 THE COURT: And would that influence you or
7 affect you in being a fair and impartial juror in this
8 case?

9 JUROR PEGGY RAMSEY: No, sir.

10 THE COURT: Okay. Thank you.

11 And Miss Bell.

12 JUROR JO BELL: I knew Miss Tardy at her
13 business. I did -- also did contracts and got some
14 accounts from with her with my business.

15 THE COURT: Now, what kind of contracts?

16 JUROR JO BELL: Sales contracts. I work at a
17 finance company and she -- we did some financing and
18 business. And I know Roxanne.

19 THE COURT: So you had a business relationship
20 with her and you know Miss Ballard, as well, her
21 daughter.

22 JUROR JO BELL: Yes, sir.

23 THE COURT: And would that influence you or
24 affect you in being a fair and impartial juror in this
25 case?

26 JUROR JO BELL: Yes, sir.

27 THE COURT: Okay. Thank you.

28 I'm sorry. Seventy-one. I missed your number a few
29 minutes ago. Miss Haynes, how, how did you know Miss

1 Tardy?

2 JUROR PATRICIA HAYNES: I bought furniture from
3 her.

4 THE COURT: Would that influence you or affect
5 you in being a fair and impartial juror in this case?

6 JUROR PATRICIA HAYNES: No. No.

7 THE COURT: Okay. Thank you.

8 Number 90. Mr. Blaylock, you knew Miss Tardy; is
9 that correct?

10 JUROR DAVID BLAYLOCK: Yes, sir.

11 THE COURT: How did you know her?

12 JUROR DAVID BLAYLOCK: She bought groceries at
13 the store I worked at every afternoon just about.

14 THE COURT: The store where you work; is that
15 correct?

16 JUROR DAVID BLAYLOCK: Yes, sir.

17 THE COURT: And would that affect you or be an
18 influence on you being a fair and impartial juror in this
19 case?

20 JUROR DAVID BLAYLOCK: I think it would.

21 THE COURT: Okay. Thank you.

22 Number 92. Miss Lane, you knew Miss Tardy.

23 JUROR KATHERINE LANE: Yes, sir.

24 THE COURT: And how did you know her?

25 JUROR KATHERINE LANE: I bought furniture from
26 her store.

27 THE COURT: Excuse me.

28 JUROR KATHERINE LANE: I bought furniture from
29 her store.

1 THE COURT: You knew her from the store.

2 JUROR KATHERINE LANE: Yes, sir.

3 THE COURT: And would that influence you or be
4 a factor in you being a fair juror in this case?

5 JUROR KATHERINE LANE: No, sir.

6 THE COURT: Thank you.

7 Number 93. Mr. Matthews, how did you know Miss
8 Tardy?

9 JUROR HARLEY MATTHEWS: Just through the store.

10 THE COURT: Would that influence you or be a
11 factor in you being a fair and impartial juror?

12 JUROR HARLEY MATTHEWS: No, sir.

13 THE COURT: Okay. Miss Hodges, how did you
14 know Miss Tardy?

15 JUROR SALLIE HODGES: Just through her
16 business.

17 THE COURT: And would that influence you or
18 affect you in being a fair and impartial juror in this
19 case?

20 JUROR SALLIE HODGES: No, sir.

21 THE COURT: Okay. Thank you.

22 And Number 98. Miss Harris, how did you know Miss
23 Tardy?

24 JUROR CARON HARRIS: I purchased furniture
25 there.

26 THE COURT: Would that influence you or be a
27 factor in you being a fair and impartial juror?

28 JUROR CARON HARRIS: No, sir.

29 THE COURT: Okay. Thank you.

1 And Miss Corder, how did you know Miss Tardy?

2 JUROR DIANNE CORDER: Just through business in
3 the store.

4 THE COURT: And would that influence you or be
5 a factor in you being a fair and impartial juror?

6 JUROR DIANNE CORDER: No, sir.

7 THE COURT: Thank you.

8 And Mr. Marlow, you knew Miss Tardy.

9 JUROR CLAUDE MARLOW: Yes, I did.

10 THE COURT: How, how did you know her?

11 JUROR CLAUDE MARLOW: I bought furniture from
12 her, and she was also a friend.

13 THE COURT: And did y'all socialize, your
14 family and her family?

15 JUROR CLAUDE MARLOW: Not lately.

16 THE COURT: Did you back when she was alive?

17 JUROR CLAUDE MARLOW: No. I did a lot of
18 mechanic work for her and her daughter.

19 THE COURT: Okay. And would that influence you
20 in any way in being a fair and impartial juror in this
21 case?

22 JUROR CLAUDE MARLOW: Yes, it would.

23 THE COURT: Okay. Thank you.

24 I don't see your number. 103. Miss Butts, how did
25 you know Miss Tardy?

26 JUROR MARY BUTTS: I bought furniture. And I
27 worked at Winona Dry Cleaner a couple of yards from it.

28 THE COURT: Okay. So you worked at the dry
29 cleaners right next door.

1 JUROR MARY BUTTS: (Nodded.)

2 THE COURT: And I assume by that you probably
3 would see her pretty often.

4 JUROR MARY BUTTS: (Nodded.)

5 THE COURT: And would that influence you or
6 affect you in being a fair and impartial juror in this
7 case?

8 JUROR MARY BUTTS: No, sir.

9 THE COURT: Would you base your decision only
10 on the evidence here in court?

11 JUROR MARY BUTTS: Yes, sir.

12 THE COURT: Okay. Thank you.

13 Mr. Hudson, I believe Mr. Tardy's mother was married
14 to your cousin; is that...

15 JUROR JAMIE HUDSON: Yes.

16 THE COURT: And did, did you have any other
17 knowledge of her besides that?

18 JUROR JAMIE HUDSON: I repaired her jewelry at
19 the store.

20 THE COURT: Would that affect you in any way in
21 being a fair and impartial juror in this case?

22 JUROR JAMIE HUDSON: No, sir.

23 THE COURT: Okay. Thank you.

24 And Mr. Glover, how did you know Miss Tardy?

25 JUROR EARL GLOVER: We bought furniture from
26 her store.

27 THE COURT: And would that influence you or
28 affect you in any way in being a fair juror in this case?

29 JUROR EARL GLOVER: No, sir.

1 THE COURT: Okay. Thank you.

2 Miss Legg, how did you know Miss Tardy?

3 JUROR CONNIE LEGG: Just through the store,
4 through furniture purchases. And my husband teaches,
5 teaches at the same school where Miss Ballard's kids go
6 to school.

7 THE COURT: Okay. So he teaches Sunday school
8 at the church where Miss Ballard goes.

9 JUROR CONNIE LEGG: No. School.

10 THE COURT: Oh, teaches school with Miss
11 Ballard. Is she a school teacher?

12 JUROR CONNIE LEGG: No.

13 THE COURT: Okay.

14 JUROR CONNIE LEGG: Roxanne is not a school
15 teacher.

16 THE COURT: Well, now what was the situation
17 then? Your husband --

18 JUROR CONNIE LEGG: I was just telling you that
19 my husband teaches school --

20 THE COURT: Oh.

21 JUROR CONNIE LEGG: -- where her kids go to
22 school.

23 THE COURT: Oh, okay. Thank you. I'm sorry.
24 I'm --

25 JUROR CONNIE LEGG: That's okay.

26 THE COURT: Would those factors influence you
27 at all in being a fair and impartial juror in this case.

28 JUROR CONNIE LEGG: No.

29 THE COURT: And Number 121. Mr. Welch, you

1 knew Miss Tardy.

2 JUROR BRUCE WELCH: I filled prescriptions for
3 her.

4 THE COURT: Excuse me.

5 JUROR BRUCE WELCH: I filled prescriptions for
6 her.

7 THE COURT: Okay. You were her pharmacist.

8 JUROR BRUCE WELCH: Yes, sir.

9 THE COURT: And would that influence you or
10 affect you in being a fair and impartial juror in this
11 case?

12 JUROR BRUCE WELCH: No, sir.

13 THE COURT: Okay. Thank you.

14 And Miss Box, how did you know Miss Tardy?

15 JUROR PATRICIA BOX: I lived across the street
16 from her.

17 THE COURT: You lived across the street from
18 her.

19 JUROR PATRICIA BOX: (Nodded.)

20 THE COURT: And would that influence you or
21 affect you in being a fair and impartial juror in this
22 case?

23 JUROR PATRICIA BOX: No.

24 THE COURT: Okay. Thank you.

25 And Miss Jones, you knew Miss Tardy.

26 JUROR JUDY JONES: Yes, I played Bridge with
27 Bertha. We entertained in each other's homes. And I
28 know the Ballards. I taught the two Ballard
29 grandchildren during the time. And I also did business

1 with her.

2 THE COURT: And you did business with her too.

3 JUROR JUDY JONES: Yes.

4 THE COURT: And would those factors influence
5 you in being a fair and impartial juror in this case?

6 JUROR JUDY JONES: No.

7 THE COURT: So you can lay all that aside and
8 sit as a fair juror; is that correct?

9 JUROR JUDY JONES: Yes. Yes.

10 THE COURT: Okay. Thank you.

11 Number 126. Miss Caffey, you knew Miss Tardy.

12 JUROR LOUISE CAFFEY: Yes, sir.

13 THE COURT: And how did you know her?

14 JUROR LOUISE CAFFEY: We are members of the
15 same church, and I did business with her.

16 THE COURT: And would that influence you or
17 affect you in being a fair juror in this case?

18 JUROR LOUISE CAFFEY: No, sir.

19 THE COURT: Okay. Thank you.

20 And 146. Mr. Caffey, what is that situation?

21 JUROR CONNER CAFFEY: I go to the same church
22 as her.

23 THE COURT: Would that influence you or be a
24 factor in you being a fair and impartial juror in this
25 case?

26 JUROR CONNER CAFFEY: No, sir.

27 THE COURT: Okay. Thank you.

28 And Number 143. Mr. Campbell, how did you know Miss
29 Tardy?

1 JUROR DEWEY CAMPBELL: Business with the store.

2 THE COURT: And would that influence you or be
3 a factor in you being a fair and impartial juror in this
4 case?

5 JUROR DEWEY CAMPBELL: No.

6 THE COURT: Okay. Thank you.

7 Next, ladies and gentlemen, I want to know if any of
8 you were related by blood or by marriage to Robert L.
9 Golden. Any of you related by blood or by marriage to
10 Mr. Golden.

11 How many of you just knew who Mr. Golden was? Any
12 of you -- did any of you know Mr. Golden? If you did, if
13 you will, please, stand at this time.

14 Miss Branch, how did you know Mr. Golden?

15 JUROR LISA BRANCH: I taught Mr. Golden's son
16 in school when he was at the elementary school years ago.

17 THE COURT: And would that influence you or
18 affect you in being a fair and impartial juror in this
19 case?

20 JUROR LISA BRANCH: No, sir, it would not.

21 THE COURT: Okay. Thank you.

22 And Number 48. Mr. Seals, how did you know Mr.
23 Golden?

24 JUROR TONNY SEALS: As a neighbor. As a young
25 kid and neighbor.

26 THE COURT: Would that be a factor or influence
27 you at all in being a fair and impartial juror in this
28 case?

29 JUROR TONNY SEALS: No.

1 THE COURT: Okay. Thank you.

2 Number 16. Miss Palmertree.

3 JUROR DAWN PALMERTREE: Yes, sir. I remember
4 him delivering furniture for my family.

5 THE COURT: So he would deliver furniture from
6 the Tardy store to your family.

7 JUROR DAWN PALMERTREE: Right. Right.

8 THE COURT: And did you know Miss Tardy at all?

9 JUROR DAWN PALMERTREE: I don't remember her.

10 No.

11 THE COURT: And would these -- would the fact
12 that you knew Mr. Golden in that capacity, would that
13 influence you or affect you in your ability to be fair
14 and impartial?

15 JUROR DAWN PALMERTREE: No, sir.

16 THE COURT: Okay. Thank you.

17 And Miss Purnell, how did you know Mr. Golden?

18 JUROR MARY PURNELL: He was married to my
19 classmate.

20 THE COURT: Married to who?

21 JUROR MARY PURNELL: To my classmate.

22 THE COURT: Okay. So you were a classmate of
23 his wife.

24 JUROR MARY PURNELL: Yes, sir.

25 THE COURT: And would that influence you or
26 affect you in any way in being a fair and impartial juror
27 in this case?

28 JUROR MARY PURNELL: No, sir. Not at all.

29 THE COURT: Okay. Thank you.

1 Number 92. Miss Lane, how did you know Mr. Golden?

2 JUROR KATHERINE LANE: He was a classmate.

3 THE COURT: How?

4 JUROR KATHERINE LANE: He was a classmate.

5 THE COURT: And would that influence you or be
6 a factor at all in being a fair and impartial juror?

7 JUROR KATHERINE LANE: No.

8 THE COURT: It would not. Okay. Thank you.

9 What is your number? 103. Miss Butts, you knew Mr.
10 Golden.

11 JUROR MARY BUTTS: Yes, sir, I do.

12 THE COURT: How did you know him?

13 JUROR MARY BUTTS: I knew his family, his wife.
14 Me and his wife are relatives.

15 THE COURT: What about his wife?

16 JUROR MARY BUTTS: His wife was a distant
17 cousin, and I knew a lot of his family members.

18 THE COURT: Would those factors influence you
19 at all in being a fair and impartial juror in this case?

20 JUROR MARY BUTTS: No, sir.

21 THE COURT: Okay. Thank you.

22 And Mr., Mr. Glover, you knew Mr. Golden.

23 JUROR EARL GLOVER: Yes, sir.

24 THE COURT: And how did you know him?

25 JUROR EARL GLOVER: Friends.

26 THE COURT: You were --

27 JUROR EARL GLOVER: Friends of him and his
28 brother.

29 THE COURT: You were friends with him and his

1 brother.

2 JUROR EARL GLOVER: Yes, sir.

3 THE COURT: And would that influence you or
4 affect you in being a fair and impartial juror?

5 JUROR EARL GLOVER: No, sir.

6 THE COURT: So you can lay your friendship
7 aside with him and base your decision on the evidence
8 here in court.

9 JUROR EARL GLOVER: Yes, sir.

10 THE COURT: Okay. Thank you.

11 Number 126. Miss Caffey, you knew Mr. Golden.

12 JUROR LOUISE CAFFEY: No, sir. I taught his
13 children.

14 THE COURT: Taught Mr. Golden's children. And
15 would that influence you or affect you as a fair and
16 impartial juror in this case?

17 JUROR LOUISE CAFFEY: No, sir.

18 THE COURT: Okay. Thank you.

19 And then 127. Miss Yates, you knew Mr. Golden.

20 JUROR ESSIE YATES: Yes, sir.

21 THE COURT: And how did you know him?

22 JUROR ESSIE YATES: Just from living in Winona.

23 THE COURT: And would that influence you or
24 affect you in being a fair and impartial juror?

25 JUROR ESSIE YATES: Yes.

26 THE COURT: Okay. Thank you.

27 And Number 115. Mr. Butts, how did you know Mr.
28 Golden?

29 JUROR LEWIS BUTTS: Friend. And I worked with

1 him at Hankins for awhile, and I work with his brother
2 now.

3 THE COURT: What is his brother's name?

4 JUROR LEWIS BUTTS: Willie Golden.

5 THE COURT: You worked with Mr. Golden also at
6 some point in the past. Would those factors influence
7 you or affect you in being a fair and impartial juror in
8 this case?

9 JUROR LEWIS BUTTS: Yes, it would.

10 THE COURT: Okay. Thank you.

11 And Number 116. Mr. Seals, how did you know Mr.
12 Golden?

13 JUROR DERRICK SEALS: I work with his brother.
14 He, he was a sub-contractor for me.

15 THE COURT: Subcontract with, with who?

16 JUROR DERRICK SEALS: With me.

17 THE COURT: Okay. What is his brother's name?

18 JUROR DERRICK SEALS: Willie Golden.

19 THE COURT: So you and Mr. Butts worked
20 together too.

21 JUROR DERRICK SEALS: No, sir. Mr. Golden.

22 THE COURT: Would that factor influence you at
23 all in being a fair and impartial juror in this case?

24 JUROR DERRICK SEALS: Yes, sir, it will.

25 THE COURT: Thank you.

26 Mr. Flowers, you knew Mr. Golden.

27 JUROR ARTHUR FLOWERS: Yes, sir.

28 THE COURT: And how did you know him?

29 JUROR ARTHUR FLOWERS: A friend.

1 THE COURT: And would that be a factor or
2 influence you in being a fair and impartial juror in this
3 case?

4 JUROR ARTHUR FLOWERS: No, sir.

5 THE COURT: So you can lay that friendship
6 aside and base your decision on the evidence.

7 JUROR ARTHUR FLOWERS: Um-hum.

8 THE COURT: Are you any kin to Mr. Flowers that
9 is on trial?

10 JUROR ARTHUR FLOWERS: Um-hum.

11 THE COURT: How are you related to him?

12 JUROR ARTHUR FLOWERS: Second cousin.

13 THE COURT: And is that going to affect you in
14 being a fair and impartial juror in this case?

15 JUROR ARTHUR FLOWERS: I don't know.

16 THE COURT: So you've got some doubts about
17 that because of your kinship with him; is that correct?

18 JUROR ARTHUR FLOWERS: Um-hum.

19 THE COURT: Okay. Thank you.

20 And Miss Dumas, you knew Mr. Golden.

21 JUROR RUBY DUMAS: Yes.

22 THE COURT: And how did you know him?

23 JUROR RUBY DUMAS: He rented my house for ten
24 years.

25 THE COURT: He rented a house from you.

26 JUROR RUBY DUMAS: Yes.

27 THE COURT: And would that influence you at all
28 in being a fair and impartial juror?

29 JUROR RUBY DUMAS: No.

1 THE COURT: Okay. So you would not let that
2 come into play at all in your being a fair juror; is that
3 correct?

4 JUROR RUBY DUMAS: No.

5 THE COURT: Okay. Number 145. Mr. Herrod, and
6 how, how did you know Mr. Golden?

7 JUROR DANNY HEROD: We were just friends. We
8 had worked together several times cutting timber and
9 selling firewood.

10 THE COURT: And would that be a factor or
11 influence you at all in being a fair and impartial juror?

12 JUROR DANNY HEROD: Yes, it would.

13 THE COURT: Okay. Thank you.

14 Anyone else that hadn't spoken up that knew Mr.
15 Golden?

16 Any of you related by blood or by marriage to Carmen
17 Rigby? Any of you related by blood or by marriage to
18 Carmen Rigby?

19 Mr. Vance, how were you related to Mr. Rigby?

20 JUROR JIMMY VANCE: That's my wife's third
21 cousin.

22 THE COURT: Wife's...

23 JUROR JIMMY VANCE: Third cousin.

24 THE COURT: Third or first?

25 JUROR JIMMY VANCE: Third.

26 THE COURT: Third. Okay. And would that be a
27 factor or influence you at all in being a fair and
28 impartial juror in this case?

29 JUROR JIMMY VANCE: Yes.

1 THE COURT: Thank you.

2 Mr. Palmertree, how did you know Miss Rigby? I mean
3 how are you related to Miss Rigby.

4 JUROR LARRY PALMERTREE: She was my wife's
5 first cousin's wife.

6 THE COURT: Say, say that again.

7 JUROR LARRY PALMERTREE: She was my wife's
8 first cousin's wife.

9 THE COURT: Okay. She was married to your
10 wife's first cousin.

11 JUROR LARRY PALMERTREE: Right.

12 THE COURT: Okay. And so she was related by
13 marriage to y'all.

14 JUROR LARRY PALMERTREE: Right.

15 THE COURT: Would that influence you or be a
16 factor in you being a fair and impartial juror in this
17 case?

18 JUROR LARRY PALMERTREE: It would.

19 THE COURT: Okay. Thank you.

20 And anybody else related by blood or by marriage to
21 Miss Rigby?

22 How many of you just knew Carmine Rigby, as far as
23 you knew who she was or had some association or knowledge
24 of her? If you will, please, stand.

25 Okay. Miss Boles, how did you know Miss Rigby?

26 JUROR RUTHIE BOLES: I didn't. I knew her
27 husband as insurance agent.

28 THE COURT: And would that influence you or be
29 a factor in you being a fair and impartial juror in this

1 case?

2 JUROR RUTHIE BOLES: No.

3 THE COURT: Okay. Thank you.

4 And Miss Riddell, how, how do you know Miss Rigby?

5 JUROR JENNIFER RIDDELL: Her niece was my best
6 friend throughout high school. We usually went every
7 Sunday and me and Carmine and her -- their two children
8 would eat lunch at the Rigby's father's house.

9 THE COURT: And would that influence you or be
10 a factor in you being a fair and impartial juror in this
11 case?

12 JUROR JENNIFER RIDDELL: Very possible.

13 THE COURT: Okay. Thank you.

14 Number 11. Mr. Pope, how did you know Miss Rigby?

15 JUROR JAMES POPE: I went to school with her
16 and her husband both, in Vaiden.

17 THE COURT: And would that be a factor or
18 influence you in being a fair and impartial juror in this
19 case?

20 JUROR JAMES POPE: No, sir.

21 THE COURT: So you could lay any of that aside
22 and base your decision only on the evidence here in
23 court; is that correct?

24 JUROR JAMES POPE: That's right.

25 THE COURT: Okay. Thank you.

26 And Miss Holland, you knew Miss Rigby.

27 JUROR TINA HOLLAND: I didn't know her. I knew
28 her husband after her death. He was the music director
29 of the church I go to.

1 THE COURT: And do y'all still go to that same
2 church?

3 JUROR TINA HOLLAND: I go to the same church.
4 He is not the music director anymore.

5 THE COURT: And would that factor influence you
6 or affect you in being a fair and impartial juror in this
7 case?

8 JUROR TINA HOLLAND: No, sir.

9 THE COURT: And you will lay all that aside and
10 base your decision only on the evidence; is that correct?

11 JUROR TINA HOLLAND: Yes, sir.

12 THE COURT: Okay. Thank you.

13 And Mr. Bennett, how do you know Miss Rigby?

14 JUROR RONALD BENNETT: I knew her through
15 casual contact at school. I served on the board with her
16 husband, school board.

17 THE COURT: And would that influence you or
18 affect you in being a fair and impartial juror in this
19 case?

20 JUROR RONALD BENNETT: No, sir.

21 THE COURT: Okay. Thank you.

22 And Number 16. Miss Palmertree, what is that
23 situation?

24 JUROR DAWN PALMERTREE: Miss Rigby's niece and
25 I went to school together. We were good friends. I
26 remember playing with Miss Rigby's sons. And being -- it
27 being, you know, the family, going to church together.

28 THE COURT: And would that influence you or
29 affect you in being a fair juror in this case?

1 JUROR DAWN PALMERTREE: No.

2 THE COURT: It would not. You could lay all
3 that aside; is that correct?

4 JUROR DAWN PALMERTREE: Yes.

5 THE COURT: Number 18. Miss Britt, how did you
6 know Miss Rigby?

7 JUROR SANDRA BRITT: Friends with the family.
8 And my sister-in-law is the female lead singer with Benny
9 Rigby's gospel group.

10 THE COURT: Would that influence you or affect
11 you in any way in being a fair juror?

12 JUROR SANDRA BRITT: Yes.

13 THE COURT: Okay. Thank you.

14 And McNeer, you knew Miss Rigby.

15 JUROR SHIRLEY MCNEER: I did. Her children
16 attended school with my children, and we worked on
17 various fundraising projects together at, at the school.

18 THE COURT: And would that influence you or
19 affect you in being a fair and impartial juror?

20 JUROR SHIRLEY MCNEER: No, sir.

21 THE COURT: Okay. Thank you.

22 Number -- I'm sorry. Number 5. Mr. Chambley, how
23 did you know Miss Rigby?

24 JUROR BENNY CHAMBLEY: My aunt was in the
25 gospel group with Miss Rigby's husband.

26 THE COURT: And would that influence you or
27 affect you in being a fair and impartial juror in this
28 case?

29 JUROR BENNY CHAMBLEY: No, sir.

1 THE COURT: Okay. Thank you.

2 And Number 26. Miss Branch, you knew Miss Rigby.

3 JUROR LISA BRANCH: Yes. I knew her through
4 the business at Tardy's. And I know her boys through
5 just when they went to school. I did not teach them
6 though.

7 THE COURT: But you knew them.

8 JUROR LISA BRANCH: I did.

9 THE COURT: They were in school at the same
10 time you were teaching.

11 JUROR LISA BRANCH: Um-hum.

12 THE COURT: And would those factors influence
13 you at all in being a fair and impartial juror in this
14 case?

15 JUROR LISA BRANCH: It would not.

16 THE COURT: Okay. Thank you.

17 And Mr. Johnson, how, how do you know or how did you
18 know Miss Rigby?

19 JUROR BRADFORD JOHNSON: I didn't know her. I
20 know her husband through business, and I knew her sons --
21 know her sons.

22 THE COURT: And would that influence you or
23 affect you in being a fair and impartial juror in this
24 case?

25 JUROR BRADFORD JOHNSON: No, sir, it wouldn't.

26 THE COURT: Okay. Thank you.

27 Then Miss Ingram. How, how did you know Miss Rigby?

28 JUROR REGINA INGRAM: She was a dear friend.

29 And her children went to school with my children. And

1 her son and my daughter dated for about five years.

2 THE COURT: And would that influence you in
3 being a fair and impartial juror in this case?

4 JUROR REGINA INGRAM: (Nodded.)

5 THE COURT: Okay. Thank you.

6 Number 33. Miss Lancaster, how did you know Miss
7 Rigby?

8 JUROR ROSEMARY LANCASTER: Acquaintance through
9 our children playing sports.

10 THE COURT: And would that influence you or
11 affect you in being a fair and impartial juror in this
12 case?

13 JUROR ROSEMARY LANCASTER: No.

14 THE COURT: Okay. Thank you.

15 And Mr. Bennett, you knew Miss Rigby.

16 JUROR WILLIAM BENNETT: Through her husband and
17 the gospel group.

18 THE COURT: And I believe you've already said
19 you were related to Miss Tardy and former law enforcement
20 and you couldn't be fair and impartial any way; is that
21 correct?

22 JUROR WILLIAM BENNETT: Right.

23 THE COURT: Okay. Thank you.

24 Miss Corley, how did you know Miss Rigby?

25 JUROR MELODIE CORLEY: I didn't know her. I
26 knew her husband. Benny and I worked -- both worked at
27 North Winona Baptist Church.

28 THE COURT: Both -- okay. From North Winona
29 Baptist.

1 JUROR MELODIE CORLEY: Yes.

2 THE COURT: And would that influence you or
3 affect you in being a fair and impartial juror in this
4 case?

5 JUROR MELODIE CORLEY: No, sir.

6 THE COURT: Okay. Thank you.

7 Miss Braswell, you knew Miss Rigby too.

8 JUROR BURNADETTE BRASWELL: Her son went to
9 school with my son, and her husband was minister of music
10 at our church after her death.

11 THE COURT: Was that North Winona?

12 JUROR BURNADETTE BRASWELL: Yes, sir.

13 THE COURT: Would those factors influence you
14 or affect you at all in being a fair juror in this case?

15 JUROR BURNADETTE BRASWELL: No, sir.

16 THE COURT: Okay. Thank you.

17 And Miss Bond, how did --

18 JUROR JULIA BOND: Going to church and
19 listening to the gospel group.

20 THE COURT: Say that again.

21 JUROR JULIA BOND: By going to the church and
22 listening to the gospel group.

23 THE COURT: And would that influence you or be
24 a factor in you being a fair and impartial --

25 JUROR JULIA BOND: No.

26 THE COURT: -- juror?

27 And Miss Johnson, how did you know Miss Rigby?

28 JUROR KAREN JOHNSON: I knew her through the
29 store. And her sister-in-law and I grew up together.

1 THE COURT: And who was that sister-in-law?

2 JUROR KAREN JOHNSON: Her name was Brenda

3 Avant.

4 THE COURT: And would that influence you or be
5 a factor in you being a fair and impartial juror?

6 JUROR KAREN JOHNSON: No, sir.

7 THE COURT: Okay. Thank you.

8 And Mr. Reed, you knew Miss Rigby.

9 JUROR ROBERT REED: Yes, sir.

10 THE COURT: How did you know her?

11 JUROR ROBERT REED: Well, we grew up together.

12 THE COURT: And would that influence you in
13 being a fair and impartial juror in this case?

14 JUROR ROBERT REED: Yes, sir.

15 THE COURT: Okay. Thank you.

16 And Mr. Colbert, how did you know Miss Rigby?

17 JUROR JAMES COLBERT: I did not know her, but I
18 taught her son.

19 THE COURT: Would that be a factor or influence
20 you at all in being a fair juror in this case?

21 JUROR JAMES COLBERT: No, sir.

22 THE COURT: Okay. Thank you.

23 Number 60. Miss Blakely, what is that situation?

24 JUROR SHIRLEY BLAKELY: Carmine and I and our
25 families were friends. Her youngest son and my youngest
26 daughter went to school together from kindergarten
27 through junior year.

28 THE COURT: And would that be a factor or
29 influence you in being a fair and impartial juror in this

1 case?

2 JUROR SHIRLEY BLAKELY: No.

3 THE COURT: Okay. Thank you.

4 And Mr. King, what is that situation?

5 JUROR JUSTIN KING: Both of her sons worked for
6 my father. One was working for him at the time and one
7 coached me in baseball. I just know the family.

8 THE COURT: So you know Miss Rigby's sons real
9 well then.

10 JUROR JUSTIN KING: Yes, sir.

11 THE COURT: Is that a factor or would that be
12 an influence or affect you in any way?

13 JUROR JUSTIN KING: Yes, sir.

14 THE COURT: So you could not be a fair and
15 impartial juror; is that correct?

16 JUROR JUSTIN KING: Yes, sir.

17 THE COURT: Okay. Thank you.

18 Number 63. Mr. Miller, how did you know Miss Rigby?

19 JUROR DAVID MILLER: Close friends with her and
20 her husband.

21 THE COURT: Friends with her and her husband.

22 JUROR DAVID MILLER: (Nodded.)

23 THE COURT: Would that influence you in being a
24 fair and impartial juror?

25 JUROR DAVID MILLER: Yes, sir.

26 THE COURT: Okay. Thank you.

27 Seventy-nine. Mr. Austin, how, how did you know
28 Miss Rigby?

29 JUROR JOHN AUSTIN: I didn't know her. I know

1 both her sons. I played baseball with her youngest son.

2 THE COURT: And would that be a factor or
3 influence you in any way in being a fair juror in this
4 case?

5 JUROR JOHN AUSTIN: No, sir, it would not.

6 THE COURT: Okay. Thank you.

7 Miss Ramsey, how, how did you know Miss Rigby?

8 JUROR PEGGY RAMSEY: I kept score for the high
9 school baseball team of which her youngest son was a
10 member. And I would see Mrs. Rigby at the ball games.

11 THE COURT: You would see her at ball games.

12 JUROR PEGGY RAMSEY: Um-hum.

13 THE COURT: And would that be a factor or
14 influence you in being a fair and impartial juror in this
15 case?

16 JUROR PEGGY RAMSEY: No. No.

17 THE COURT: Okay. Thank you.

18 And Miss Bell, how did you know Miss Rigby?

19 JUROR JO BELL: I just knew her when I saw her
20 really. Not, not -- just an acquaintance really.

21 THE COURT: Would that influence you or affect
22 you in being a fair and impartial juror in this case?

23 JUROR JO BELL: No, sir.

24 THE COURT: Okay. Thank you.

25 And Number 89. Miss Land, how did you know Miss
26 Rigby?

27 JUROR COLBY LAND: I went to the same school as
28 her kids.

29 THE COURT: Would that influence you at all in

1 being a fair and impartial juror in this case?

2 JUROR COLBY LAND: No, sir, it would not.

3 THE COURT: Okay. Thank you.

4 Number 83. Mr. Biggers, you knew Miss Rigby.

5 JUROR WILLIAM BIGGERS: I worked with her
6 husband for five years. We have been friends ever since.

7 THE COURT: And would that influence you or
8 affect you in being a fair and impartial --

9 JUROR WILLIAM BIGGERS: Yes, sir.

10 THE COURT: -- juror in this case? Okay.
11 Thank you.

12 Number 90. Mr. Blaylock, how did you know Miss
13 Rigby?

14 JUROR DAVID BLAYLOCK: Same as Miss Tardy.
15 Know her through the store. Come in the store.

16 THE COURT: And would that influence you in
17 being a fair and impartial juror?

18 JUROR DAVID BLAYLOCK: Yes, it would.

19 THE COURT: Okay. Thank you.

20 And Mr. Matthews.

21 JUROR HARLEY MATTHEWS: I knew her through her
22 sons through school.

23 THE COURT: And would that influence you at all
24 in being a fair and impartial juror in this case?

25 JUROR HARLEY MATTHEWS: No.

26 THE COURT: Okay. Thank you.

27 And Miss Hodges, how did you know Miss Rigby?

28 JUROR SALLIE HODGES: I went to school with
29 her. I graduated with her brother. My children went to

1 school with her children. And her husband was minister
2 of music at our church.

3 THE COURT: Would those factors influence you
4 or affect you in any way in being a fair juror in this
5 case?

6 JUROR SALLIE HODGES: No, sir. No, sir.

7 THE COURT: Okay. Thank you.

8 And Mr. Huggins. Number 97.

9 JUROR BURRELL HUGGINS: I knew her through my
10 wife.

11 THE COURT: Were, were your wife and her
12 friends?

13 JUROR BURRELL HUGGINS: Well, they knew one
14 another. Yes, sir. When we meet her out in public, I
15 knew who she was.

16 THE COURT: You would just see her and know who
17 she was on sight.

18 JUROR BURRELL HUGGINS: That's it.

19 THE COURT: But really weren't friends.

20 JUROR BURRELL HUGGINS: All I did was talk to
21 her.

22 THE COURT: Now, would that influence you or
23 affect you in any way in being a fair juror in this case?

24 JUROR BURRELL HUGGINS: No, it would not.

25 THE COURT: Okay. Thank you.

26 And Miss Corder, you knew Miss Rigby.

27 JUROR DIANNE CORDER: I did not know her
28 personally. I seen her maybe a time or two. But I knew
29 her husband in the last few years when he became minister

1 of music at our church.

2 THE COURT: And would those factors influence
3 you or affect you in being a fair and impartial juror in
4 this case?

5 JUROR DIANNE CORDER: It won't.

6 THE COURT: Okay. Thank you.

7 And 103. Miss Butts, how did you know Miss Rigby?

8 JUROR MARY BUTTS: I knew her from working at
9 Tardy Furniture Company, and her husband was insurance
10 salesperson.

11 THE COURT: And would those factors influence
12 you or affect you in being a fair and impartial juror in
13 this case?

14 JUROR MARY BUTTS: No, sir.

15 THE COURT: Okay. Thank you.

16 Number 110. Miss Legg, you knew Miss Rigby.

17 JUROR CONNIE LEGG: I knew her through the
18 store and her -- my husband coached her youngest son in
19 baseball.

20 THE COURT: And would that -- those factors
21 influence you or affect you in being a fair and impartial
22 juror in this case?

23 JUROR CONNIE LEGG: No, it would not.

24 THE COURT: Okay. Thank you.

25 Number 121. Mr. Welch, you knew Miss Rigby.

26 JUROR BRUCE WELCH: I went to school with her
27 all my life.

28 THE COURT: Excuse me.

29 JUROR BRUCE WELCH: I went to school with her

1 in Vaiden all my life. Knew her and her husband.

2 THE COURT: And would that influence you or
3 affect you in being a fair and impartial juror in this
4 case?

5 JUROR BRUCE WELCH: No, sir.

6 THE COURT: Okay. Thank you.

7 Number 126. Miss Caffey, what is that situation?

8 JUROR LOUISE CAFFEY: I taught her son, and our
9 sons played baseball together.

10 THE COURT: Would those factors influence you
11 or affect you at all in being a fair and impartial juror
12 in this case?

13 JUROR LOUISE CAFFEY: No, sir.

14 THE COURT: Okay. Thank you.

15 And 134. Miss Vance, what is the situation?

16 JUROR ASHLEY VANCE: I, I went to church with
17 her whenever I was young. Grew up in the same church
18 with her.

19 THE COURT: Would that influence you or be a
20 factor in you being a fair and impartial juror?

21 JUROR ASHLEY VANCE: No, sir.

22 THE COURT: Okay. Thank you.

23 And Number 143. Mr. Campbell, and how did you know
24 Miss Rigby?

25 JUROR DEWEY CAMPBELL: My wife and her were
26 friends, and we bought a mobile home from them.

27 THE COURT: Say that again.

28 JUROR DEWEY CAMPBELL: My wife and her were
29 friends. We bought a mobile home from them.

1 THE COURT: And would that influence you or
2 affect you in being a fair and impartial juror in this
3 case?

4 JUROR DEWEY CAMPBELL: No.

5 THE COURT: Okay. Thank you.

6 And Number 146. Mr. Caffey, how did you know Miss
7 Rigby?

8 JUROR CONNER CAFFEY: Brian and I were
9 classmates my senior year in high school, and we played
10 baseball together.

11 THE COURT: And that is her son.

12 JUROR CONNER CAFFEY: Yes, sir.

13 THE COURT: And would that influence you or
14 affect you in any way in being a fair and impartial juror
15 in this case?

16 JUROR CONNER CAFFEY: No, sir.

17 THE COURT: Okay. Thank you.

18 And Mr. Tompkins, you knew Miss Rigby.

19 JUROR DANNY TOMPKINS: Yes, sir.

20 THE COURT: And how did you know her?

21 JUROR DANNY TOMPKINS: Casual acquaintances
22 with her and her family.

23 THE COURT: Would those factors influence you
24 in being a fair and impartial juror in this case?

25 JUROR DANNY TOMPKINS: No, sir.

26 THE COURT: Okay. Thank you.

27 Yes. Number 147. What is that situation?

28 JUROR JAMITA SMITH: When I had answered before
29 that --

1 THE COURT: Can you speak up a little?

2 JUROR JAMITA SMITH: Can I what?

3 THE COURT: Speak up a little. I was having
4 trouble hearing you.

5 JUROR JAMITA SMITH: When I had answered before
6 and told you that Johnny Hargrove was my cousin, the
7 reason why I didn't put it on my questionnaire was
8 because I just found out today when I went home for
9 lunch.

10 THE COURT: Okay.

11 JUROR JAMITA SMITH: I just found out.

12 THE COURT: Well, I appreciate that.

13 I'll ask now if any of you are related by blood or
14 by marriage to, during his lifetime, to Derrick Stewart.
15 Any of you related by blood or by marriage to Mr.
16 Stewart?

17 Miss Cooper, how were you related to Mr. Stewart?

18 JUROR SARA COOPER: My husband's second cousin.

19 THE COURT: And would that influence you or be
20 a factor in you being a fair and impartial juror in this
21 case?

22 JUROR SARA COOPER: Yes, sir, it would.

23 THE COURT: Okay. Thank you.

24 Now how many of you knew Derrick Stewart? If you
25 knew Mr. Stewart, if you will, please, stand.

26 And Mr. Pope, how did you know Mr. Stewart?

27 JUROR JAMES POPE: Yes. I went to school with
28 Randy and Evan and his other brother.

29 THE COURT: Would those factors influence you

1 or affect you in being a fair and impartial juror in this
2 case?

3 JUROR JAMES POPE: No, sir.

4 THE COURT: Okay. Thank you.

5 And I'm sorry, Number 5. I missed you to start
6 with. How did you know Mr. Stewart?

7 JUROR BENNY CHAMBLEY: I went to school with
8 his older brother.

9 THE COURT: Would that influence you or affect
10 you in being a fair and impartial juror in this case?

11 JUROR BENNY CHAMBLEY: No, sir.

12 THE COURT: Okay. Thank you.

13 And Number 22. Mr. Gibson, how did you know Mr.
14 Stewart?

15 JUROR JONATHAN GIBSON: He and my brother were
16 friends.

17 THE COURT: And would that influence you or
18 affect you in any way in being a fair juror in this case?

19 JUROR JONATHAN GIBSON: No, sir.

20 THE COURT: Okay. Thank you.

21 And Number 24. Mr. Dendy, how did you know Mr.
22 Stewart?

23 JUROR JAMES DENDY: We attended the same
24 school, were friends. I knew his older brother.

25 THE COURT: Well, did y'all go in the same
26 class together?

27 JUROR JAMES DENDY: We weren't in the same
28 class but same school.

29 THE COURT: Okay. And you were friends also

1 with Mr. Stewart's brother.

2 JUROR JAMES DENDY: I knew his brother.

3 THE COURT: And would that influence you or
4 affect you in being a fair and impartial juror in this
5 case?

6 JUROR JAMES DENDY: Possible.

7 THE COURT: So you've got some doubts about it.

8 JUROR JAMES DENDY: Yes, sir.

9 THE COURT: Okay. Thank you.

10 Okay. Miss Sawyer, how did you know Mr. Stewart?

11 JUROR JACQUELINE SAWYER: I went to school with
12 him.

13 THE COURT: And would that influence you or
14 affect you in being a fair and impartial juror in this
15 case?

16 JUROR JACQUELINE SAWYER: No.

17 THE COURT: Okay. Thank you.

18 And Miss Ingram, how did you know Mr. Stewart?

19 JUROR REGINA INGRAM: I know his family and he
20 went to -- he and his brother went to school with my
21 children.

22 THE COURT: And would that influence you or
23 affect you in any way in being a fair and impartial juror
24 in this case?

25 JUROR REGINA INGRAM: Yes.

26 THE COURT: It would.

27 JUROR REGINA INGRAM: Yes.

28 THE COURT: Okay. Thank you.

29 And Number 33. Miss Lancaster, how did you know Mr.

1 Stewart?

2 JUROR ROSEMARY LANCASTER: My son played
3 baseball with him.

4 THE COURT: And would that influence you or
5 affect you in being a fair juror in this case?

6 JUROR ROSEMARY LANCASTER: No, sir.

7 THE COURT: Okay. Thank you.

8 Miss Gill, how did you know Mr. Stewart?

9 JUROR CONNIE GILL: I didn't know him, but I
10 knew his brothers. And we have actually talked a little
11 bit about it.

12 THE COURT: And would that influence you or
13 affect you in being a fair and impartial juror in this
14 case?

15 JUROR CONNIE GILL: Yes, it would.

16 THE COURT: Okay. Thank you.

17 JUROR CONNIE GILL: I also grew up with his --
18 would be his stepmother.

19 THE COURT: Okay. Thank you.

20 Number 47. Miss Johnson, how did you know Mr.
21 Stewart?

22 JUROR KAREN JOHNSON: Derrick and my children
23 were very good friends, and I was very fond of him
24 myself.

25 THE COURT: And would that influence you or
26 affect you in being a fair and impartial juror?

27 JUROR KAREN JOHNSON: Yes, sir.

28 THE COURT: Okay. Thank you.

29 Forty-nine. Mr. Reed, how did you know Mr. Stewart?

1 JUROR ROBERT REED: I went to school with his
2 daddy and mother and all his aunts and uncles.

3 THE COURT: And would that influence you or be
4 a factor in you being a fair and impartial juror in this
5 case?

6 JUROR ROBERT REED: I imagine it would.

7 THE COURT: Okay. And Number 51. Miss Cooper,
8 how -- you have already said you were related to him and
9 that would affect you in being fair and impartial; is
10 that correct?

11 JUROR SARA COOPER: But we also went to school
12 together before I was married to my husband. I knew him
13 from school. He was also a very good friend.

14 THE COURT: Okay. Thank you.

15 Seventy-nine. Mr. Austin, how did you know Mr.
16 Stewart?

17 JUROR JOHN AUSTIN: We attended the same
18 school, and I played baseball with him several years.

19 THE COURT: Would that influence you or affect
20 you in any way in being a fair and impartial juror?

21 JUROR JOHN AUSTIN: No, sir, it would not.

22 THE COURT: Okay. Thank you.

23 Okay. I believe 86 is next. Miss Ramsey, how did
24 you know Mr. Stewart?

25 JUROR PEGGY RAMSEY: I worked with the high
26 school and the summer league baseball programs. And
27 Derrick was very active in both programs. And I also
28 taught him in Vacation Bible School.

29 THE COURT: And would those factors influence

1 you or affect you at all in being a fair and impartial
2 juror?

3 JUROR PEGGY RAMSEY: Possibly.

4 THE COURT: So you have some doubt because of
5 that.

6 JUROR PEGGY RAMSEY: (Nodded.)

7 THE COURT: Okay. Thank you.

8 Number 89. Mr. Land, how did you know Mr. Stewart?

9 JUROR COLBY LAND: We went to the same school.

10 THE COURT: And would that affect you or
11 influence you at all in being a fair and impartial juror?

12 JUROR COLBY LAND: No, sir, it would not.

13 THE COURT: Okay. Thank you.

14 Number 90. Mr. Blaylock, how did you know Mr.
15 Stewart?

16 JUROR DAVID BLAYLOCK: I did not know him, but
17 I worked with his stepmother, aunt and cousin.

18 THE COURT: Would that influence you or affect
19 you in being a fair and impartial juror?

20 JUROR DAVID BLAYLOCK: Yes, it would.

21 THE COURT: Okay. Thank you.

22 Number 91. Miss Vance, how did you know Mr.
23 Stewart?

24 JUROR NANCY VANCE: We went to the same high
25 school.

26 THE COURT: And would that influence you or
27 affect you in any way in being a fair and impartial
28 juror?

29 JUROR NANCY VANCE: No, sir.

1 THE COURT: Okay. Thank you.

2 And Miss Hodges, you knew Mr. Stewart.

3 JUROR SALLIE HODGES: I went to school with
4 both of his parents. My daughter went to school with
5 him.

6 THE COURT: Would that influence you or affect
7 you in being a fair and impartial juror in this case?

8 JUROR SALLIE HODGES: (Shook head.)

9 THE COURT: It would not.

10 JUROR SALLIE HODGES: No, sir.

11 THE COURT: Okay. Thank you.

12 And Miss Corder, how did you know Mr. Stewart?

13 JUROR DIANNE CORDER: I taught eighth grade
14 English at Winona Public School, and Derrick was in my
15 class. I also taught his brother Dale.

16 THE COURT: Would those factors influence you
17 or affect you in being a fair and impartial juror in this
18 case?

19 JUROR DIANNE CORDER: No, sir.

20 THE COURT: Okay. Thank you.

21 One hundred ten. Miss Legg, how did you know Mr.
22 Stewart?

23 JUROR CONNIE LEGG: My husband also coached
24 both BoBo --

25 THE COURT: Say that --

26 JUROR CONNIE LEGG: My husband coached.

27 THE COURT: Oh, your husband coached him.
28 Okay. Would that influence you or be a factor in you
29 being a fair and impartial juror?

1 JUROR CONNIE LEGG: No. No.

2 THE COURT: Okay. Thank you.

3 One hundred twenty-one. Mr. Welch, and you knew Mr.
4 Stewart.

5 JUROR BRUCE WELCH: I went to school with his
6 parents, and I taught Derrick in Sunday School. My
7 oldest son used to play with him.

8 THE COURT: Taught him in Sunday School.

9 JUROR BRUCE WELCH: Yes, sir.

10 THE COURT: And what was the last thing?

11 JUROR BRUCE WELCH: My son used to play with
12 him.

13 THE COURT: Sons were friends. Would those
14 factors influence you or affect you in any way in being a
15 fair and impartial juror in this case?

16 JUROR BRUCE WELCH: No, sir.

17 THE COURT: Okay. Thank you.

18 One hundred twenty-three. Miss Box, how did you
19 know Mr. Stewart?

20 JUROR PATRICIA BOX: I worked at the school
21 that he and his brother attended.

22 THE COURT: Would that influence you or affect
23 you at all in being a fair and impartial juror?

24 JUROR PATRICIA BOX: No.

25 THE COURT: Okay. Thank you.

26 And Number 124. Mr. Palmertree, how did you know
27 Mr. Stewart?

28 JUROR LARRY PALMERTREE: I did not know Mr.
29 Stewart, but I was close friends to his father.

1 THE COURT: Would that influence you or affect
2 you in being a fair and impartial juror?

3 JUROR LARRY PALMERTREE: Yes, it would.

4 THE COURT: Okay. Thank you.

5 And 125. Miss Jones, how did you know Mr. Stewart?

6 JUROR JUDY JONES: Bobo was a friend of my
7 sons, and he stayed in our home some.

8 THE COURT: And would those factors influence
9 you or affect you in being a fair and impartial juror?

10 JUROR JUDY JONES: No, it would not.

11 THE COURT: Okay. Thank you.

12 Number 126. Miss Caffey, how, how did you know Mr.
13 Stewart?

14 JUROR LOUISE CAFFEY: I taught Derrick and his
15 brother Dale.

16 THE COURT: You taught him.

17 JUROR LOUISE CAFFEY: (Nodded.)

18 THE COURT: And would that influence you or be
19 a factor in you being a fair and impartial juror in this
20 case?

21 JUROR LOUISE CAFFEY: No, sir.

22 THE COURT: Okay. Thank you.

23 Number 128. Mr. Vance, how did you know Mr.
24 Stewart?

25 JUROR JIMMY VANCE: I coached both of them in
26 summer baseball.

27 THE COURT: Would that influence you or affect
28 you in being a fair juror in this case?

29 JUROR JIMMY VANCE: Yes, sir.

1 THE COURT: Okay. Thank you.

2 Number 134. Miss Vance, you knew Mr. Stewart.

3 JUROR ASHLEY VANCE: Yes, sir. I went to
4 school with him for one year.

5 THE COURT: And would that influence you or
6 affect you in being a fair and impartial juror in this
7 case?

8 JUROR ASHLEY VANCE: No, sir.

9 THE COURT: Okay. Thank you.

10 And Miss Bailey, you knew Mr. Stewart.

11 JUROR SUZANNE BAILEY: I taught him and his
12 brother.

13 And I need to back up and -- I have been associated
14 with Miss Tardy's grandchildren and her daughter at
15 school and Brian Rigby's, let's see, and little Randy
16 Golden, Mr. Golden's.

17 THE COURT: And would those factors influence
18 you or affect you at all in being a fair and impartial
19 juror in this case?

20 JUROR SUZANNE BAILEY: No, sir.

21 THE COURT: Okay. Thank you.

22 And Number 145. Mr. Herod, you knew Mr. Stewart.

23 JUROR DANNY HEROD: Yes, sir. I coached BoBo
24 several times growing up. He and my son were close
25 friends. He spent a lot of time in our home.

26 THE COURT: And would those factors influence
27 you or affect you in being a fair and impartial juror?

28 JUROR DANNY HEROD: Yes, sir.

29 THE COURT: Okay. Thank you.

1 And Number 146. Mr. Caffey, what is that situation?

2 JUROR CONNER CAFFEY: I knew he and his brother
3 from school. I played a year of baseball with BoBo.

4 THE COURT: And would that influence you or
5 affect you in being a fair and impartial juror in this
6 case?

7 JUROR CONNER CAFFEY: No, sir.

8 THE COURT: Okay. Thank you.

9 And Number 166.

10 JUROR JASON ABLES: Lived in the same
11 apartments. Got to know him real good, he and his
12 family.

13 THE COURT: And would that influence you or
14 affect you in being a fair and impartial juror in this
15 case?

16 JUROR JASON ABLES: Yes, sir, it would.

17 THE COURT: Okay. Thank you.

18 And Number 151. Miss Kennedy, how did you know Mr.
19 Stewart?

20 JUROR STACY KENNEDY: We went to school
21 together.

22 THE COURT: And would that influence you or
23 affect you in any way in being a fair and impartial
24 juror?

25 JUROR STACY KENNEDY: No.

26 THE COURT: Okay. Thank you.

27 And Counsel, if you will approach.

28 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.

29 CARTER APPROACHED THE BENCH FOR THE FOLLOWING BENCH CONFERENCE

1 HAD OUTSIDE THE HEARING OF THE JURY.)

2 THE COURT: We are getting ready to recess for
3 the day. I'm getting ready to recess for the day, but it
4 looks like there are several probably that can be excused
5 for cause. I wonder if y'all would be amenable to going
6 back in chambers for a couple of minutes and discussing
7 those. I know if we don't, we will just have the same
8 questions that will be answered over and over by the same
9 people.

10 MR. EVANS: That will be fine.

11 That will be fine.

12 (THE BENCH CONFERENCE WAS CONCLUDED.)

13 THE COURT: Ladies and gentlemen, we are going
14 to be back in judges chambers for about ten minutes. You
15 can take a short recess.

16 During this recess do not discuss this case with
17 anyone or among yourselves. You can't talk to any
18 lawyers, parties or witnesses involved in this case, and
19 we will be back in a few minutes.

20 (MR. EVANS, MR. HILL, MR. BERRY, MR. DEGRUY, MRS.
21 STEINER, MR. CARTER, THE DEFENDANT, J.D. JOHNSON AND BAILIFF
22 MARILEE BROWNING WERE PRESENT IN JUDGE'S CHAMBERS.)

23 THE COURT: The bailiff had advised me there
24 was something a juror had said to her, and she wanted to
25 mention it. And I said wait until everybody is here.

26 BAILIFF BROWNING: I don't have any answers to
27 tell them. I like to tell it to somebody with authority.

28 One of the jurors came to me and said I don't know
29 if you want to know this or not but since, since you made

1 cell phone announcement, no calls to come in, but she
2 says there is a juror here that has not quit text
3 messaging since she has been sitting in the courtroom.

4 THE COURT: If you will, find out which juror
5 that is that's got the phone. We'll take that up.

6 BAILIFF: Okay.

7 (BAILIFF MARILEE BROWNING LEFT JUDGE'S CHAMBERS.)

8 THE COURT: Counsel, I know right now we have
9 voir dired for an hour and a half, two hours maybe. I
10 know they are ready to leave or recess for the day. But
11 there are several, I think it had become obvious that
12 they probably cannot be fair and impartial.

13 And I thought maybe we could go through those right
14 now. And so if y'all agree on these that I call out,
15 please state that.

16 Number 3, Riddell or Riddell - I'm not sure how it
17 is pronounced - was a friend of or knows Miss Rigby. And
18 she said she could not be fair and impartial.

19 Do y'all agree with that?

20 MR. CARTER: Yes, sir.

21 MR. EVANS: Yes, sir.

22 THE COURT: And then Robert Todd Moorehead,
23 Number 14, knew Bertha Tardy, also Roxanne Ballard, and
24 has stated he could not be fair and impartial.

25 Do y'all agree on that one?

26 MR. CARTER: Yes, sir.

27 MR. EVANS: I may have written the "C" on the
28 wrong line, Your Honor. Hold on just a minute.

29 I put it on the wrong line. I agree.

1 THE COURT: So we'll excuse Moorehead for
2 cause.

3 And let's see. Number 18. Miss Britt knew Miss
4 Rigby, sister-in-law sings with Mr. Rigby. And she said
5 these factors would affect her, and she could not be fair
6 and impartial.

7 MR. EVANS: Yes, sir.

8 THE COURT: Do y'all agree on that?

9 MR. CARTER: Yes, sir.

10 MS. STEINER: Yes, sir.

11 THE COURT: Okay. And Number 20. Brother is
12 law enforcement officer in Grenada. That is the only
13 thing he said, but he is saying that would affect him in
14 being a fair and impartial juror.

15 Do y'all agree?

16 MR. CARTER: We agree.

17 MR. EVANS: That is what he said. He probably
18 just wants out of serving.

19 THE COURT: Got to take him at his word.

20 I have a question mark by Miss McNeer, Number 21.
21 But I am trying to recall exactly what it was.

22 MS. STEINER: She, Your Honor --

23 THE COURT: Knew Miss Tardy.

24 MS. STEINER: She knew Miss Tardy as a fellow
25 business woman and financed purchases for the store.

26 MR. EVANS: And said it wouldn't affect her.

27 MR. HILL: I don't have anything on her that
28 indicates --

29 MR. DEGRUY: She didn't say she couldn't be

1 fair.

2 THE COURT: Okay. Her children attended the
3 same school with Rigby children. So I guess I must have
4 made a note that wasn't correct there as far as right now
5 for her. She will remain on.

6 And let's see. Twenty-three. Mr. Forrest.

7 MR. EVANS: I agree.

8 THE COURT: First cousin law enforcement. Said
9 he could not be fair and impartial.

10 Did y'all make that note, all of you?

11 MR. CARTER: Yes, sir.

12 MR. EVANS: Yes, sir.

13 THE COURT: And Number 24. Mr. Dendy said he
14 knew Mr. Stewart. I believe they were friends, and he
15 also was a brother -- friend of Mr. Stewart's brother.
16 And he said he could not be fair and impartial.

17 Do y'all have that?

18 MR. EVANS: We agree.

19 THE COURT: And let's see. Number 30. Miss
20 Ingram. She knew Miss Rigby and knew Mr. Stewart and
21 said because of that she could not be fair and impartial.

22 Do y'all all agree with that?

23 MR. EVANS: Yes, sir.

24 MR. CARTER: Yes, sir.

25 THE COURT: And then let's see. Thirty-four.
26 He was related to Bertha Tardy. He knows Miss Rigby and
27 her husband from the gospel group. And he said on all
28 occasions he could not be a fair and impartial juror.

29 Do y'all agree on him?

1 MR. CARTER: Yes, sir.

2 MR. EVANS: Yes, sir.

3 THE COURT: Then Connie McElroy Gill knew Mr.
4 Stewart's brother. Grew up with Mr. Stewart's
5 stepmother, and she said she could not be a fair and
6 impartial juror.

7 Do y'all agree on --

8 MR. EVANS: We agree.

9 MR. CARTER: Yes, sir.

10 Do y'all have that number?

11 THE COURT: Number 37.

12 MR. CARTER: Yeah, we agree.

13 MS. STEINER: I agree.

14 THE COURT: Number 47. Karen Diane Johnson.
15 She knew Miss Rigby from the store. Let's see. First
16 cousin by marriage to John, David Johnson. And I've got
17 out here that she could not be fair and impartial.

18 MR. CARTER: I agree.

19 MR. EVANS: We agree.

20 THE COURT: And Number 49 knew Miss Rigby and
21 he knew Mr. Stewart. I think he said he is related to
22 Miss Tardy in some fashion as well and that he could not
23 be fair and impartial.

24 Do y'all agree on that one?

25 MR. CARTER: Agree.

26 MR. EVANS: Yes, sir.

27 THE COURT: And Number 51. Sarah Johnson
28 Cooper. She was related to Stewart. And let's see. I
29 believe --

1 MS. STEINER: Very good friend.

2 THE COURT: Yeah. And said she could not be
3 fair and impartial.

4 Do y'all agree on that?

5 MR. EVANS: We do.

6 MR. CARTER: Yes, sir.

7 THE COURT: And Number 53, Miss Mitchell. She
8 dealt with Miss Tardy and then went to high school with
9 Roxanne Ballard, who is Miss Tardy's daughter. And she
10 said she could not be fair and impartial.

11 MR. CARTER: Agree.

12 MR. EVANS: Yes, sir.

13 THE COURT: John Patrick White. Number 55. I
14 believe he said Miss Tardy was youth director at his
15 church at some point, and he couldn't be a fair and
16 impartial juror because of that.

17 Do y'all --

18 MR. CARTER: We agree.

19 MR. EVANS: We agree.

20 THE COURT: Let's see. Number 62. Justin
21 King. He knows Miss Rigby's sons. And I believe he said
22 him and David Johnson are related, and he could not be a
23 fair and impartial juror.

24 MR. CARTER: We agree.

25 THE COURT: Do y'all have that?

26 MR. CARTER: Yes, sir.

27 MR. HILL: (Nodded.)

28 THE COURT: Let's see. David Miller, Number
29 63, knew Miss Rigby. Friend with her and her husband.

1 He said he could not be a fair and impartial juror.

2 Do y'all have that?

3 MR. EVANS: Yes, sir.

4 MR. CARTER: Yes, sir. We agree.

5 THE COURT: And Number 67, Miss Barnes. She is
6 related to a law enforcement officer in Grenada. And she
7 said that would affect her, and she could not be fair and
8 impartial.

9 Do y'all have that?

10 MR. CARTER: Yes, sir.

11 MR. EVANS: We agree.

12 THE COURT: And let's see. Seventy-eight.
13 Miss Robinson. I've got -- I don't, couldn't read a
14 note.

15 MR. JOHNSON: She is excused because of school.

16 THE COURT: I knew there was something there.

17 Number 73. Law enforcement officer. Knew the
18 Rigbys, family friends. And said could not be fair and
19 impartial.

20 MR. CARTER: We agree.

21 MR. EVANS: We agree.

22 THE COURT: And then 84 knew Miss Tardy. Knew
23 Miss Tardy from the store, and she doubts she can be fair
24 and impartial.

25 MR. HILL: Right.

26 THE COURT: You can't have any doubt and be on
27 a jury in my view.

28 MR. CARTER: We agree.

29 THE COURT: So I'll allow Miss Young to be

1 excused.

2 Okay. Eighty-six. I believe said was in school
3 with Miss Tardy, knew Miss Rigby, also knew Mr. Stewart
4 from baseball and taught him in Vacation Bible School.
5 And she indicated that she could not be fair and
6 impartial.

7 Do y'all agree?

8 MR. HILL: Yes. She was another one that had
9 some doubts.

10 MR. CARTER: We agree.

11 MR. HILL: Yeah.

12 THE COURT: She doubts but...

13 And Miss Bell. Number 87. She knew Miss Ballard,
14 Miss Rigby and Miss Tardy, had business contacts with
15 Miss Tardy and Miss Ballard.

16 I think she knew Miss Ballard because they are in
17 the same age group and knew Miss Rigby and said she could
18 not be a fair and impartial juror.

19 Do y'all agree?

20 MR. CARTER: We agree.

21 MS. STEINER: We agree.

22 MR. EVANS: Yes, sir.

23 THE COURT: David Blaylock said more than once
24 he knew Mr. Stewart. He knew Miss Tardy. He knew Miss
25 Rigby. Said he could not be fair and impartial.

26 MR. CARTER: We agree.

27 MS. STEINER: That is Number 90, Your Honor.

28 THE COURT: Yes, ma'am.

29 Number 96. Robert Rawls.

1 MR. HILL: That is the guy that is excused
2 already. Cancer.

3 THE COURT: Right. Excused because he had -- I
4 guess just didn't have his medication or his excuse with
5 him this morning. But based on what he was telling me at
6 the bench, he certainly, I think, needed to be excused.

7 Okay. Number 101. Claude Marlow. I believe he
8 said he did work, mechanic work for the Tardy's at times,
9 was friend and --

10 MR. CARTER: Which one are we on, Your Honor?

11 THE COURT: Number 101. Claude Marlow.

12 MS. STEINER: Yes, Your Honor. We have him.

13 THE COURT: Do y'all have that one?

14 MR. EVANS: Yes, sir.

15 MR. CARTER: Yes, sir.

16 THE COURT: Okay. Let's see.

17 MR. CARTER: You don't have number 91, Your
18 Honor?

19 THE COURT: I hadn't -- she hadn't said she
20 could not be fair and impartial, as far as I know.

21 MR. EVANS: We don't have anything.

22 MR. CARTER: Okay.

23 THE COURT: I have she knew several of the
24 people. Okay.

25 Let's see. Number 115. Lewis Butts. He is related
26 to somebody in law enforcement, and he has got a doubt
27 about whether he can be fair and impartial is what I have
28 got written out there.

29 MR. EVANS: He also worked with one of the

1 victim's brother.

2 THE COURT: Yeah, he sure did.

3 Y'all agree on him?

4 MR. CARTER: Yes, sir.

5 MR. HILL: Yes, sir.

6 MS. STEINER: Yes, Your Honor.

7 THE COURT: Derrick Seals. Number 116. He
8 knew Mr. Golden. Also, I believe works now or did at one
9 point with Willie Golden, Mr. Golden's brother, and said
10 he couldn't be fair and impartial.

11 MR. EVANS: Yes, sir.

12 MR. CARTER: Yes, sir. We agree.

13 THE COURT: Number 124. Mr. Palmertree knew
14 the Stewart family, close friend of Mr. Stewart's father.
15 I think his wife or somebody is related to - was it the
16 Rigbys - and said he could not be fair and impartial?

17 MS. STEINER: (Nodded.)

18 MR. EVANS: We agree.

19 THE COURT: Essie Yates is married to Gary
20 Yates, who is in law enforcement. And she also spoke up
21 and said she knew Mr. Golden, could not be a fair and
22 impartial juror.

23 MR. CARTER: Agree.

24 MR. EVANS: We agree.

25 THE COURT: And Jimmy Vance, he knew Miss Rigby
26 and also law enforcement connection and said he can't be
27 fair and impartial.

28 MR. CARTER: Agree.

29 MR. EVANS: Agree.

1 THE COURT: And I believe 132. Mr. Flowers has
2 said he was second cousin of the defendant and had some
3 doubts about whether he could be a fair and impartial
4 juror.

5 MR. EVANS: Yes, sir.

6 MR. CARTER: We agree.

7 MR. EVANS: Agree for cause.

8 THE COURT: Okay. One hundred forty-two.
9 Tammy Williams. James Thomas Williams is her uncle.
10 Ellis, who is a state -- I mean is her father or uncle.
11 Ellis Bevis, probation officer. James Thomas Williams is
12 state trooper. She said she could not be fair and
13 impartial because of those kinships to law enforcement.

14 MR. EVANS: We agree.

15 MS. STEINER: Agree.

16 THE COURT: Dewey Campbell, his brother Kenneth
17 Campbell, who was former sheriff here. He said because
18 of kinship with law enforcement he could not be fair and
19 impartial.

20 Do y'all --

21 MR. CARTER: Yes, sir.

22 MR. EVANS: Yes, sir.

23 THE COURT: -- agree on that?

24 Okay. One hundred forty-nine. Emma Crawford.

25 MR. CARTER: What about 145, Your Honor?

26 THE COURT: Yeah. I'm sorry. Danny Herod knew
27 the Goldens; knew the Stewarts, Mr. Stewart; law
28 enforcement connection and could not be fair and
29 impartial.

1 Do y'all --

2 MR. EVANS: We agree.

3 THE COURT: Then Emma Crawford, Number 49, 149,
4 I'm sorry, said she could not be fair and impartial. She
5 is, is first cousin to Johnny Hargrove. I think she said
6 she had doubts about whether she could be fair and
7 impartial.

8 MR. DEGRUY: Had doubts.

9 THE COURT: Do y'all agree on her?

10 MR. CARTER: Yes, sir.

11 MR. EVANS: Yes, sir.

12 THE COURT: And let's see. Danny Tompkins.
13 One hundred fifty-seven.

14 MR. HILL: One-fifty-three.

15 THE COURT: Did I skip 153? I had that --

16 MR. EVANS: That one is gone.

17 THE COURT: Yeah. Miss --

18 MR. DEGRUY: She didn't come back.

19 THE COURT: She came -- she came in.

20 MR. EVANS: I marked it off, but she didn't
21 come back.

22 THE COURT: So 157. Danny Tompkins. He is a
23 game warden.

24 MR. HILL: Before we pass up, I had noted on
25 Juror Number 153, assuming she is still here, that she
26 was kin to Marvae Butts, law enforcement officer. That
27 would affect her decision. Does anybody else have that?

28 MS. STEINER: I have that she claimed kinship
29 but it would not.

1 THE COURT: I don't have --

2 MS. STEINER: Is what she said.

3 MR. BERRY: I didn't either.

4 MR. EVANS: I just have that she is kin.

5 THE COURT: She is kin to him, but I didn't
6 have that she said it would affect her.

7 Then 157. Danny Tompkins is a game warden. He knew
8 the Rigbys, knew Miss Rigby, friend of the family, and he
9 said it would affect him in being fair and impartial.

10 MR. CARTER: Agree on that one.

11 MR. EVANS: I had a question mark by him but he
12 never said it would affect him.

13 MR. BERRY: I couldn't hear him say it.

14 MR. EVANS: May need to ask him a few more just
15 to make sure.

16 MR. JOHNSON: I do not have it.

17 THE COURT: Okay. We will check on him,
18 because I mean we are -- you know, it's not going to hurt
19 him to stick around a while longer tomorrow or however
20 long it takes.

21 Number 158. George Moore. His father was former
22 Duck Hill officer, and he said that would affect him.

23 MR. EVANS: Yes, sir.

24 THE COURT: Do y'all agree?

25 MR. CARTER: Agree.

26 THE COURT: One-sixty-two.

27 MR. JOHNSON: Sick baby.

28 THE COURT: One-sixty-two is the lady that went
29 home at lunch today, and her child was not breathing and

1 had to be rushed to the hospital.

2 MR. HILL: I have 160. I have 160. That that
3 would affect. That she was kin to Emory Moore, I guess,
4 or something like that. That would affect her decision.

5 THE COURT: I didn't have that it would affect
6 her, but she said that Mr. Moore, I believe, is her
7 father-in-law.

8 MR. HILL: Anybody else have that?

9 MR. EVANS: I couldn't hear some of what they
10 were answering.

11 MR. HILL: I thought she said it would affect
12 her.

13 THE COURT: I don't have that.

14 MR. JOHNSON: (Shook head.)

15 THE COURT: And let's see. Number 166. Mr.
16 Able was a friend with Mr. Stewart.

17 MR. EVANS: Yes, sir.

18 THE COURT: Do y'all agree on that one?

19 MR. EVANS: We agree.

20 THE COURT: And then the bailiff has given me
21 the juror number that supposedly was text messaging. So
22 I am going to have the bailiff bring that juror right
23 quick, and I'm going to ask a couple of questions.

24 Number 25.

25 MR. EVANS: Your Honor, I have a couple of
26 things that I would want to bring up. One of them, at
27 least, I don't see that it could hurt to go ahead and
28 bring it up now. Because of the Court's ruling that we
29 have got to bring up anything we notice in Court if we

1 ever intend to use it, I want to make sure that I put in
2 the record so that everybody can notice Juror Number 17
3 has been sitting on the front, on the right side there,
4 had been sleeping just about through everything that has
5 been going on.

6 THE COURT: I had not noticed, but I will keep
7 a watch tomorrow.

8 (JUROR NUMBER 25, JACQUELINE SAWYER, ENTERED JUDGE'S
9 CHAMBERS.)

10 THE COURT: Miss Stewart, have you had a cell
11 phone out today?

12 JUROR JACQUELINE SAWYER: Stewart. Sawyer.
13 Yes, sir.

14 THE COURT: And have you been text messaging
15 during this proceeding?

16 JUROR JACQUELINE SAWYER: Yes, sir.

17 THE COURT: What did you not understand about
18 saying we weren't supposed to have cell phones inside the
19 courtroom?

20 JUROR JACQUELINE SAWYER: I just thought you
21 wasn't supposed to -- I didn't know you not supposed to
22 text. I'm sorry.

23 THE COURT: Leave that cell phone at home
24 tomorrow and do not dare bring it inside this courtroom.

25 JUROR JACQUELINE SAWYER: Okay.

26 THE COURT: That will be all. Have a seat back
27 out there.

28 (JUROR NUMBER 25, JACQUELINE SAWYER, LEFT JUDGE'S
29 CHAMBERS.)

1 THE COURT: Okay. I will go out and excuse
2 these, and then the rest we will advise to be here
3 tomorrow.

4 MR. EVANS: Your Honor, while we are here,
5 also, I have one other matter that I want to bring to the
6 Court's attention. We can do it now or after you dismiss
7 the jury.

8 THE COURT: What is that matter?

9 MR. EVANS: It is a matter about some recent
10 publicity. I'd like to bring the article in to the Court
11 if I may.

12 THE COURT: Well, I guess after we send
13 everybody home, it would be easier to take it up outside
14 in the courtroom.

15 MS. STEINER: Did we excuse Juror 166?

16 THE COURT: Right.

17 MS. STEINER: Thank you, Judge.

18 (THE HEARING IN JUDGE'S CHAMBERS WAS CONCLUDED.)

19 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
20 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
21 PRESENT IN THE COURTROOM. PROCEEDINGS WERE AS FOLLOWS:)

22 THE COURT: Court will come back to order.

23 Be seated, please.

24 Okay. Number 69, what is it? Have you got
25 something you need to bring to the Court's attention?

26 JUROR ANTHONY HAMER: Yes, sir. Juror 69. As
27 I speak, I am still registered in Montgomery County as a
28 registered voter on the docket. I have not resided in
29 the city of Winona in four months. I stay in the city of

1 Grenada, but I was uncertain due to the fact that you
2 said you had to be a year or so at the address. But I
3 have went through the proper address, address change at
4 the post office here in Winona months ago.

5 THE COURT: What I think you misunderstood was
6 you've got to be a qualified elector of the county or a
7 resident freeholder for more than one year. And you have
8 abandoned this county as a residence and no longer live
9 here.

10 JUROR ANTHONY HAMER: Yes, sir.

11 THE COURT: And you've permanently moved to
12 Grenada County.

13 JUROR ANTHONY HAMER: Yes, sir. I did a proper
14 address change months ago at the post office. It was
15 just in mailing that came to someone else --

16 THE COURT: Forwarded it to you by somebody
17 else.

18 JUROR ANTHONY HAMER: Yes, sir.

19 THE COURT: Well, I am going to excuse you, Mr.
20 Hamer. If you will go into the clerk's office and have
21 them take your name off the voter roll at this time.

22 Ladies and gentlemen, there are a few of you I am
23 going to be able to excuse today. So if your name is
24 called, you may leave. Jennifer Riddell. And if you
25 will just leave your little fan. And Robert Mooorehead,
26 Number 14. And Sandra Jefcoat Britt, Number 18. And
27 Larry Henry, Number 20. And Teppy Forrest, 23. And
28 James Dendy, 24. Regina Mitchell Ingram, Number 30.
29 Number 34, William Marshall Bennett. Thirty-seven,

1 Connie McElroy Gill. Forty-seven, Karen Diane Johnson.
2 Forty-nine, Robert Reed. Fifty-one, Sara Johnson Cooper.
3 Fifty-three, Theresa Mitchell. Fifty-five, John Patrick
4 White. Sixty-two, Justin King. Sixty-three, David
5 Miller. Sixty-seven, Essie Forrest Barnes.
6 Seventy-three, Debra McKinney. Eighty-three, William
7 Biggers. Eighty-four, Jossie Young. Eighty-six, Peggy
8 Ramsey. Eighty-seven, Jo Ann Bell. Ninety, David
9 Blaylock. Number 96, Roberts Rawls. One hundred one,
10 Claude Marlow. One-fifteen, Lewis Butts. One-sixteen,
11 Derrick Seals. One-twenty-four, Larry Palmertree.
12 Number 127, Essie Yates. One-twenty-eight, Jimmy Vance.
13 One-thirty-two, Arthur Flowers. One-forty-two, Tammy
14 Williams. And one-forty-three, Dewey Campbell.
15 One-forty-five, Danny Herod. One-forty-nine, Emma
16 Crawford. One-fifty-eight, George Moore. Number 162,
17 Laskita Jones. Number 162, Miss Jones.

18 MR. JOHNSON: She's already gone.

19 THE COURT: Okay. That's right.

20 Jason Ables, 166.

21 Ladies and gentlemen, we are going to recess the
22 proceedings for today. I will ask you over this recess
23 please do not discuss this case with anyone. Please do
24 not discuss it among yourselves.

25 I will ask you to be back here at 9:00 in the
26 morning. If you will leave those little fans in the
27 bench there so that they will be available to you in the
28 morning. And if you will, as I say, just recess and be
29 back here in the morning. We'll resume at that time.

1 (THE

2 Gentlemen, this is -- Number 19 just approached.
3 This is Miss Merritt. And she actually just said earlier
4 in the day when the questions were being asked, she was
5 just kind of frightened about standing up. But she has
6 got two small children that basically won't have anybody
7 to take care of them if she is up here. I think six and
8 14.

9 Is that the ages?

10 JUROR LARHONDA MERRITT: Yes, sir.

11 THE COURT: Her husband is an over-the-road
12 truck driver and is gone. And she doesn't have anybody
13 to provide any child care or assistance.

14 Is that correct, Miss Merritt?

15 JUROR LARHONDA MERRITT: Yes, sir.

16 THE COURT: So I believe I -- you know, Miss
17 Merritt is not going to be able to serve because
18 certainly if she was sequestered she -- well, children
19 that age can't be left alone. So I'm going to excuse
20 Miss Merritt at this time.

21 And then Number 68 was the lady that had left
22 earlier because of her son. She heard part of voir dire.
23 Then we had a recess, and she got a call about her son
24 being in an accident.

25 And she's called the clerk's office and said she is
26 going to have to take him to some kind of hospital for
27 more -- I think she was thinking he broke his hand. And
28 she is going to have to take him to the doctor tomorrow.

29 So I guess you can go ahead and mark 68 out. When

1 she left earlier in the day, we didn't -- did not know
2 the status of her son at that point. So we were going to
3 have her come back. I was just going to catch her up on
4 the questions. But I think now she is just going to have
5 to stand excused.

6 (THE REMAINDER OF THE PROCEEDING HEARD ON THIS DAY WAS
7 REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

8 (THE PROCEEDING ON THIS DAY WAS CONCLUDED.)

9 (PROCEEDINGS RESUMED IN OPEN COURT ON SEPTEMBER 23, 2008.
10 MR. EVANS, MR. HILL, MR. DEGRUY, MS. STEINER, MR. CARTER AND
11 THE DEFENDANT WERE PRESENT IN OPEN COURT. PROCEEDINGS WERE AS
12 FOLLOWS:)

13 THE COURT: We'll continue the process that we
14 began yesterday further voir diring this case. I will
15 remind you that you are still under oath to answer these
16 questions truthfully.

17 And also, again, if something should arise where you
18 realize you should have spoken up to a question yesterday
19 but did not or at any time a new question comes up or you
20 think about a response that needs to be given and
21 neglected to do so, then, please, at any time speak up
22 and give us responses to all questions.

23 I want to ask you, ladies and gentlemen, now if any
24 of you are related by blood or by marriage to Curtis
25 Giovanni Flowers. Any of you related by blood or by
26 marriage to Mr. Flowers? And if you are, if you would,
27 please, stand at this time.

28 And Miss Boles, how are you related to Mr. Flowers?

29 JUROR RUTHIE BOLES: Through a previous

1 marriage.

2 THE COURT: And which one of his relatives
3 would you have been married to?

4 JUROR RUTHIE BOLES: His second cousin. And
5 also my niece was married to his brother, and they are
6 divorced. Probably about 20 years ago.

7 THE COURT: And would those factors influence
8 you or affect you in any way in being a fair and
9 impartial juror in this case?

10 JUROR RUTHIE BOLES: No, sir.

11 THE COURT: Okay. Thank you.

12 And Mr. Forrest, how are you related to...

13 JUROR WILLIE FORREST: Second cousin.

14 THE COURT: Now, will that affect you or
15 influence you in being a fair and impartial juror in this
16 case?

17 JUROR WILLIE FORREST: Yes, sir.

18 THE COURT: So you feel like you couldn't be
19 fair because of being a related relative; is that
20 correct?

21 JUROR WILLIE FORREST: Yes, sir.

22 THE COURT: Okay. Thank you.

23 Number 35. Mr. Newman, how are you related to Mr.
24 Flowers?

25 JUROR MOSES NEWMAN: His grandmother is sisters
26 with my great grandmother.

27 THE COURT: His grandmother and your great
28 grandmother.

29 JUROR MOSES NEWMAN: Right.

1 THE COURT: I assume that would make y'all, I
2 don't know, cousins in some fashion, but I am not really
3 sure how. I mean -- I mean, you know, I don't -- you
4 probably -- do you know what degree of cousin?

5 JUROR MOSES NEWMAN: I believe it is fourth.

6 THE COURT: Fourth cousin. Third or fourth
7 cousin.

8 And would that influence you or affect you as a fair
9 and impartial juror in this case?

10 JUROR MOSES NEWMAN: No, sir.

11 THE COURT: And if you were to find Mr. Flowers
12 guilty, would you feel that you owed any explanation to
13 relatives or anybody in the family for how you had ruled
14 in this case?

15 JUROR MOSES NEWMAN: No, sir.

16 THE COURT: Okay. Thank you.

17 And let's see. Number 61. Miss Knight, how are you
18 related?

19 JUROR KATHERINE KNIGHT WALLACE: He is my first
20 cousin. He is my grandmother's brother's child.

21 THE COURT: Your grandmother's brother's child.
22 And what cousin did you say?

23 JUROR KATHERINE KNIGHT WALLACE: I think it is
24 first cousin, second cousin.

25 THE COURT: And would that influence you or be
26 a factor in you being a fair and impartial juror in this
27 case?

28 JUROR KATHERINE KNIGHT WALLACE: Yes.

29 THE COURT: Okay. Thank you.

1 Number 82. Mr. Turnage, how are you related to Mr.
2 Flowers?

3 JUROR MARIO TURNAGE: We are first cousins.

4 THE COURT: Is that going to affect your
5 ability to be a fair and impartial juror in this case?

6 JUROR MARIO TURNAGE: Yes.

7 THE COURT: Okay. Thank you.

8 Number 92. Miss Lane, how are you related?

9 JUROR KATHERINE LANE: My children are related
10 to him. I'm not.

11 THE COURT: So your children's father --

12 JUROR KATHERINE LANE: Yeah.

13 THE COURT: -- was related in some fashion.

14 JUROR KATHERINE LANE: To Mr. Flowers. Yeah.

15 THE COURT: Do you know how?

16 JUROR KATHERINE LANE: Their grand -- my
17 children's grandmother and Mr. Flowers' grandmother is
18 sister and brother, I believe.

19 THE COURT: Your children's grandmother and...

20 JUROR KATHERINE LANE: Mr. Flowers' grandmother
21 is sister and brother, I believe. They way down the line
22 somewhere.

23 THE COURT: Okay. And would that influence you
24 --

25 JUROR KATHERINE LANE: No.

26 THE COURT: -- at all in being a fair and
27 impartial juror in this case?

28 JUROR KATHERINE LANE: No.

29 THE COURT: Okay. Thank you.

1 Number 98. And Miss Harris, how is it you are
2 related?

3 JUROR CARON HARRIS: It's, like, fourth cousin.

4 THE COURT: And would that influence you or be
5 a factor in you being a fair and impartial juror in this
6 case?

7 JUROR CARON HARRIS: No.

8 THE COURT: And you could sit in judgment. If
9 the verdict -- if you found the evidence was beyond a
10 reasonable doubt that he was guilty, you could return a
11 verdict of guilty.

12 JUROR CARON HARRIS: Yes.

13 THE COURT: And if you did that, would you feel
14 you owed any explanation to family members or feel ill at
15 ease seeing family members after that verdict?

16 JUROR CARON HARRIS: No.

17 THE COURT: Okay. Thank you.

18 And Number 27. Miss Sanders, how are you related?

19 JUROR FRANCES SANDERS: I'm not. I'm not, but
20 my sister is.

21 THE COURT: Okay.

22 JUROR FRANCES SANDERS: That is her nephew.

23 THE COURT: Mr. Flowers is your sister's
24 nephew.

25 JUROR FRANCES SANDERS: Right.

26 THE COURT: So she is married to --

27 JUROR FRANCES SANDERS: She is married to his
28 uncle.

29 THE COURT: To a uncle.

1 JUROR FRANCES SANDERS: Right.

2 THE COURT: Would that be a factor or influence
3 you at all in being a fair and impartial juror in this
4 case?

5 JUROR FRANCES SANDERS: Yes, it would.

6 THE COURT: Okay. Thank you.

7 Number 48. Yes. Number 48. This is Mr. Seals.
8 And how are you related to Mr. Flowers?

9 JUROR TONNY SEALS: Well, his, his uncle
10 married my mother's first cousin. His dad's brother.

11 THE COURT: Okay. His uncle -- Mr. Flowers'
12 uncle --

13 JUROR TONNY SEALS: Daddy's brother.

14 THE COURT: -- married your mother's first
15 cousin. Would that be a factor or influence you in being
16 a fair and impartial juror in this case?

17 JUROR TONNY SEALS: No.

18 THE COURT: And if the evidence was beyond a
19 reasonable doubt that he was guilty, you could find him
20 guilty.

21 JUROR TONNY SEALS: Yes.

22 THE COURT: And if you did so, would you feel
23 you owed any family or anybody related to you any
24 explanation for how you had ruled in the case?

25 JUROR TONNY SEALS: No.

26 THE COURT: Okay. Thank you.

27 And Number 103. Miss Butts, how are you related to
28 Mr. Flowers?

29 JUROR MARY BUTTS: His grandfather and my

1 father are cousins.

2 THE COURT: His grandfather and your father.

3 JUROR MARY BUTTS: Yes, sir.

4 THE COURT: And they were cousins.

5 JUROR MARY BUTTS: Cousins.

6 THE COURT: And I'm assuming somewhere down the
7 line y'all would be cousins too. I don't know.

8 JUROR MARY BUTTS: Yes, sir.

9 THE COURT: Do you know how?

10 JUROR MARY BUTTS: Not exactly.

11 THE COURT: What degree?

12 JUROR MARY BUTTS: I just know his grandfather
13 and --

14 THE COURT: Right. And would that influence
15 you or be a factor in you being a fair and impartial
16 juror in this case?

17 JUROR MARY BUTTS: Yes, sir.

18 THE COURT: Okay. Thank you.

19 Miss Black, you know Mr. Flowers; is that correct?

20 JUROR STACY BLACK: Yes.

21 THE COURT: Or you are related to him, I mean.
22 How are you related to him?

23 JUROR STACY BLACK: Third cousin.

24 THE COURT: Third.

25 JUROR STACY BLACK: (Nodded.)

26 THE COURT: And would that be a factor or
27 influence you in being a fair and impartial juror in this
28 case?

29 JUROR STACY BLACK: No.

1 THE COURT: And if the evidence was beyond a
2 reasonable doubt that he was guilty, you could find him
3 guilty; is that correct?

4 JUROR STACY BLACK: Yes.

5 THE COURT: And if you did find him guilty,
6 would you feel you owed his family or any of your family
7 explanation for how you had -- how you had ruled in the
8 case?

9 JUROR STACY BLACK: No.

10 THE COURT: Okay. Thank you.

11 I know, of course, you family members have already
12 spoken up and you know who he is. But any of the rest of
13 you that know Mr. Flowers, not related to him but just
14 know him or knew him on sight like when he walked in this
15 morning or you know who he is, if you will, please, stand
16 at this time.

17 And Mr. McKinney, Number 12, how do you know Mr.
18 Flowers?

19 JUROR FRANKLIN MCKINNEY: I don't actually know
20 him, but I work with some of his relatives. So I kind of
21 know some of his family members.

22 THE COURT: And well, which relatives?

23 JUROR FRANKLIN MCKINNEY: Mr., Mr. Flowers that
24 you released yesterday, I work with him.

25 THE COURT: And any others? Any other
26 relatives that you can think of?

27 JUROR FRANKLIN MCKINNEY: Not at all.

28 THE COURT: Would that factor influence you or
29 affect you at all in being a fair and impartial juror in

1 this case?

2 JUROR FRANKLIN MCKINNEY: I think it might.

3 THE COURT: So you are concerned because you
4 are -- work closely with the relative that was on the
5 panel yesterday --

6 JUROR FRANKLIN MCKINNEY: Right. Right.

7 THE COURT: -- and you've got doubts about, in
8 your own mind, about whether you could be fair or not.

9 JUROR FRANKLIN MCKINNEY: Yes, sir.

10 THE COURT: Thank you, Mr. McKinney.

11 JUROR FRANKLIN MCKINNEY: Also, could I --
12 could I add, Your Honor?

13 THE COURT: Yes, sir.

14 JUROR FRANKLIN MCKINNEY: If, if I was -- if it
15 came to the point that I had to be here over the weekend,
16 I pastor a church, and I don't have anybody to take care
17 of my services for me in that situation.

18 THE COURT: Okay.

19 JUROR FRANKLIN MCKINNEY: I just thought I
20 needed to let you know that.

21 THE COURT: Okay. Well, thank you for speaking
22 up, Mr. McKinney.

23 And Miss Palmertree, you know Mr. Flowers.

24 JUROR DAWN PALMERTREE: I don't know Mr. Curtis
25 Flowers, but I do know his father. I worked with his
26 father in Wal-Mart. His father is no longer with us
27 there at Wal-Mart, but...

28 THE COURT: And how long ago was that that you
29 would have worked with his father?

1 JUROR DAWN PALMERTREE: It's been several years
2 ago, but, you know, we worked really close. So I did get
3 to know him really well.

4 THE COURT: And would that be a factor or
5 influence you in being a fair and impartial juror in this
6 case?

7 JUROR DAWN PALMERTREE: It could.

8 THE COURT: So you are doubtful about whether
9 you could be fair because of a friendship with his
10 father.

11 JUROR DAWN PALMERTREE: I would be fair, you
12 know, as, as far as I could, but it could have some
13 influence on me.

14 THE COURT: Okay. Thank you.

15 Miss Sawyer, how do you know Mr. Flowers?

16 JUROR JACQUELINE SAWYER: I'm friends with his
17 sister.

18 THE COURT: And do y'all have an occasion where
19 y'all, you know, socialize and visit in homes and things
20 of that nature?

21 JUROR JACQUELINE SAWYER: Yes, sir.

22 THE COURT: And would that affect you in being
23 a fair and impartial juror in this case?

24 JUROR JACQUELINE SAWYER: Yes, it would.

25 THE COURT: Okay. Thank you.

26 I have to get my numbers straight, because everybody
27 -- my eyes...

28 I see Number 41 is next. And Miss Henson, how do
29 you know Mr. Flowers?

1 JUROR JOYCE HENSON: I don't personally know
2 him, but my husband is the nurse at the Carroll
3 Montgomery County Correctional Facility and does treat
4 him and under his medical care and sees him on a regular
5 basis.

6 THE COURT: And would that influence you or
7 affect you at all in being a fair and impartial juror in
8 this case?

9 JUROR JOYCE HENSON: No, sir.

10 THE COURT: Okay. Thank you.

11 And Number 44. Miss Stovall, how do you know Mr.
12 Flowers?

13 JUROR BRENDA STOVALL: I know his mother and
14 father. I used to -- they have a group, and my son plays
15 with their group.

16 THE COURT: Okay. A musical group of some
17 kind.

18 JUROR BRENDA STOVALL: Yeah.

19 THE COURT: So your son is in a group with Mr.
20 Flowers' parents.

21 JUROR BRENDA STOVALL: Yes.

22 THE COURT: Would that influence you or affect
23 you in being a fair and impartial juror in this case?

24 JUROR BRENDA STOVALL: Yes.

25 THE COURT: Okay. Thank you.

26 And Miss Braswell, what knowledge do you have, or
27 how do you know Mr. Flowers?

28 JUROR BURNADETTE BRASWELL: I don't know him,
29 but I work with his aunt.

1 THE COURT: And what is her name?

2 JUROR BURNADETTE BRASWELL: Hazel Jones.

3 THE COURT: And do, do y'all still work
4 together?

5 JUROR BURNADETTE BRASWELL: Yes, sir.

6 THE COURT: And where is it that you work?

7 JUROR BURNADETTE BRASWELL: PharmNet Pharmacy.

8 THE COURT: And would that be a factor or
9 influence you in being a fair and impartial juror in this
10 case?

11 JUROR BURNADETTE BRASWELL: No, sir.

12 THE COURT: Okay. Thank you.

13 Forty-eight. Mr. Seals, and again, I think you said
14 uncle was married to his first cousin; is that correct?

15 JUROR TONNY SEALS: Yes, sir.

16 THE COURT: And is there any other knowledge
17 that you have of Mr. Flowers or --

18 JUROR TONNY SEALS: Yes, sir.

19 THE COURT: Okay. And tell us that.

20 JUROR TONNY SEALS: I, I practically grew up
21 with Curtis and his brother Archie. Archie and I was
22 classmates, and we are still real good friends.

23 THE COURT: And would that affect you or
24 influence you in being a fair and impartial juror in this
25 case?

26 JUROR TONNY SEALS: Now that probably would.

27 THE COURT: So you have got doubts about your
28 ability to be fair because of your friendship with Archie
29 and growing up with Mr. Flowers.

1 JUROR TONNY SEALS: I could be fair, you know.

2 THE COURT: Well, a fair and impartial juror is
3 going to be one that is not going to be influenced by
4 knowledge of who the individual is and is going to listen
5 to the evidence and render a verdict based on the
6 evidence presented here in court and not on any
7 friendships or ties to anybody but just strictly based on
8 what goes on here in the courtroom.

9 So with that in mind, do you feel you could be a
10 fair and impartial juror?

11 JUROR TONNY SEALS: I could be.

12 THE COURT: Okay. Thank you.

13 Number 50. Miss Rash, how do you know Mr. Flowers?

14 JUROR DYES RASH: I don't know him personally,
15 but I do know his parents. His parents often attend my
16 church, and they participate in our services.

17 THE COURT: And would that be a factor or
18 influence you in being a fair and impartial juror in this
19 case?

20 JUROR DYES RASH: I think it would.

21 THE COURT: So you feel like knowing them
22 would, would influence you.

23 JUROR DYES RASH: Yes.

24 THE COURT: Okay. Thank you.

25 And Miss Rodgers, you know Mr. Flowers.

26 JUROR MELBA RODGERS: I work at Sims Metal
27 Management in Grenada, which is formerly Marsh Brothers
28 Metals. And Mr. Flowers was an employee there for a very
29 brief period of time in May of 1996.

1 And one of the attorneys, the lady sitting over
2 there, I have spoken to her back in the summer. She came
3 by.

4 THE COURT: And would that be a factor or
5 influence you at all in being a fair and impartial juror?

6 JUROR MELBA RODGERS: No.

7 THE COURT: And, and the contact you had with
8 the attorney, would that affect you in any way?

9 JUROR MELBA RODGERS: No, sir.

10 THE COURT: Okay. Thank you.

11 Miss Houston, Number 54, how is it that you know Mr.
12 Flowers?

13 JUROR DUTCHIE HOUSTON: I used to work with his
14 mother, and I work with his auntie.

15 THE COURT: Okay. You worked with his mother.
16 And where was that?

17 JUROR DUTCHIE HOUSTON: At Winona Manor.

18 THE COURT: And, and his aunt. Do you work
19 with her now?

20 JUROR DUTCHIE HOUSTON: Yes, sir.

21 THE COURT: And what is his aunt's name?

22 JUROR DUTCHIE HOUSTON: Essa Campbell.

23 THE COURT: Essa.

24 JUROR DUTCHIE HOUSTON: Essa Campbell.

25 THE COURT: And would those factors influence
26 you or have an affect on you being a fair and impartial
27 juror in this case?

28 JUROR DUTCHIE HOUSTON: Yes, sir.

29 THE COURT: Okay. Thank you.

1 And Number 56. Mr. Ratliff, and how do you know Mr.
2 Flowers?

3 JUROR DENNIS RATLIFF: I know him through his
4 family.

5 THE COURT: And which family members?

6 JUROR DENNIS RATLIFF: His mother and father.

7 THE COURT: And what is your relationship with
8 his parents?

9 JUROR DENNIS RATLIFF: Friends.

10 THE COURT: Are you friends with them or just
11 --

12 JUROR DENNIS RATLIFF: Yeah. His father used
13 to sing with my sister-in-law.

14 THE COURT: And would that influence you or
15 affect you in any way in your ability to be a fair and
16 impartial juror in this case?

17 JUROR DENNIS RATLIFF: No.

18 THE COURT: And if the evidence found that he
19 was guilty, you could find him guilty; is that correct?

20 JUROR DENNIS RATLIFF: Yes.

21 THE COURT: And would you feel if you rendered
22 such a verdict that you would owe the family or anybody
23 any explanation for how you had ruled in the case?

24 JUROR DENNIS RATLIFF: No.

25 THE COURT: Okay. Thank you.

26 Mr. Colbert, and you know Mr. Flowers.

27 JUROR JAMES COLBERT: Yes, sir. I taught and
28 coached his nephew, Brandon Flowers. And my
29 brother-in-law went to school with Mr. Flowers.

1 THE COURT: You taught and coached Mr. Flowers'
2 nephew.

3 JUROR JAMES COLBERT: Right.

4 THE COURT: And your brother taught -- I mean
5 --

6 JUROR JAMES COLBERT: My brother-in-law went to
7 school.

8 THE COURT: Your brother-in-law and he were
9 classmates.

10 JUROR JAMES COLBERT: Yes.

11 THE COURT: And would that influence you or be
12 a factor in you being a fair and impartial juror in this
13 case?

14 JUROR JAMES COLBERT: Yes, sir, it would.

15 THE COURT: And Number 58. Mr. Robinson, how
16 do you know Mr. Flowers?

17 JUROR LUTHER ROBINSON: Through my mom and dad.
18 They knew his mom and dad. Church.

19 THE COURT: And would that influence you or
20 affect you in being a fair and impartial juror in this
21 case?

22 JUROR LUTHER ROBINSON: Yes, sir. I think it
23 would.

24 THE COURT: So you feel like your knowledge of
25 his parents and their friendship with your family would
26 influence you and you just couldn't sit in judgment on
27 him; is that correct?

28 JUROR LUTHER ROBINSON: Yes, sir.

29 THE COURT: Okay. Thank you, Mr. Robinson.

1 And Number 59. Miss Anderson, what is that
2 situation?

3 JUROR DEBRA ANDERSON: I know his whole family.
4 I played ball with his sister and them.

5 THE COURT: And what is his sister's name?

6 JUROR DEBRA ANDERSON: Cora.

7 THE COURT: Cora.

8 JUROR DEBRA ANDERSON: Cora Morales.

9 THE COURT: What is -- what is that?

10 JUROR DEBRA ANDERSON: Cora Morales.

11 THE COURT: Okay. And played ball with her.

12 JUROR DEBRA ANDERSON: Yes, sir.

13 THE COURT: And are y'all still friends?

14 JUROR DEBRA ANDERSON: Yes, sir.

15 THE COURT: And do y'all still see each other
16 occasionally?

17 JUROR DEBRA ANDERSON: No. We don't see each
18 other occasionally.

19 THE COURT: Would that -- would that factor
20 influence you or affect you in any way in being a fair
21 and impartial juror in this case?

22 JUROR DEBRA ANDERSON: Yes, it will.

23 THE COURT: You feel like you just couldn't sit
24 in judgment because of that friendship with the family.

25 JUROR DEBRA ANDERSON: Yes, sir.

26 THE COURT: Okay. Thank you.

27 Number 73. And Miss McKinney, what is that
28 situation? How do you know Mr. Flowers?

29 JUROR DEBRA MCKINNEY: I know Mr. Flowers'

1 family. I been friends with them.

2 THE COURT: Friends with his family.

3 JUROR DEBRA MCKINNEY: (Nodded.)

4 THE COURT: Which family members?

5 JUROR DEBRA MCKINNEY: His grandfather and
6 grandmother. They were members of our church before they
7 -- they are both deceased right now, but they attended
8 our church. And also, his uncle is still a active member
9 there.

10 THE COURT: What is his uncle's name?

11 JUROR DEBRA MCKINNEY: James Earl Campbell.

12 THE COURT: And would those factors be an
13 influence or affect you in being a fair and impartial
14 juror in this case?

15 JUROR DEBRA MCKINNEY: It would.

16 THE COURT: So you just feel like you could not
17 sit in judgment of him because of these family ties that
18 he has where you are friends with them.

19 JUROR DEBRA MCKINNEY: Right.

20 THE COURT: Thank you.

21 Miss Everette, how, how do you know Mr. Flowers?

22 JUROR LATONYA CAMPBELL: Seventy-four.

23 THE COURT: I'm sorry. I was -- I thought that
24 I had -- it was 75 I was looking at, and you are holding
25 74.

26 Miss Campbell. Excuse me.

27 JUROR LATONYA CAMPBELL: Yes.

28 THE COURT: What is that situation?

29 JUROR LATONYA CAMPBELL: He used to talk to my

1 sister.

2 THE COURT: Excuse me.

3 JUROR LATONYA CAMPBELL: He used to go with my
4 sister.

5 THE COURT: And so he and your sister dated
6 then.

7 JUROR LATONYA CAMPBELL: Yes.

8 THE COURT: And would that influence you or
9 affect you in being a fair and impartial juror in this
10 case?

11 JUROR LATONYA CAMPBELL: Yes.

12 THE COURT: You just feel like you could not
13 sit in judgment and render a fair verdict because of
14 that.

15 JUROR LATONYA CAMPBELL: Yes.

16 THE COURT: Okay. Thank you.

17 Mr. Campbell, how do you know Mr. Flowers?

18 JUROR HENRY CAMPBELL: My father is friends
19 with his brother Archie.

20 THE COURT: Your father is what now?

21 JUROR HENRY CAMPBELL: Friends with his brother
22 Archie.

23 THE COURT: And would that be a factor or
24 influence you in any way in being a fair and impartial
25 juror in this case?

26 JUROR HENRY CAMPBELL: Yes, sir.

27 THE COURT: So you just feel like you couldn't
28 sit in judgment on the case because of that; is that
29 correct?

1 JUROR HENRY CAMPBELL: Yes, sir.

2 THE COURT: Okay. Thank you.

3 Number 77. Miss McCuiston, and how do you know Mr.
4 Flowers?

5 JUROR LORA MCCUISTON: I used to work with his
6 mother, and I still work with his aunt. And my cousin
7 was in the group with his father.

8 THE COURT: Okay. You work with his mother at
9 Winona Manor.

10 JUROR LORA MCCUISTON: At Winona Manor. I
11 still work with his aunt.

12 THE COURT: What is his aunt's name that you --

13 JUROR LORA MCCUISTON: Sir.

14 THE COURT: And you work with his aunt now.

15 JUROR LORA MCCUISTON: Aunt Essa. Essa
16 Campbell.

17 THE COURT: That is at Winona Manor.

18 JUROR LORA MCCUISTON: At Winona Manor.

19 THE COURT: And then what was that about the
20 singing?

21 JUROR LORA MCCUISTON: And my cousin sang with
22 his father in the group.

23 THE COURT: Would any of those factors
24 influence you or affect you in being a fair and impartial
25 juror in this case?

26 JUROR LORA MCCUISTON: Yes, sir.

27 THE COURT: And you just feel like you could
28 not sit in judgment in a case involving him because of
29 those ties.

1 JUROR LORA MCCUISTON: No, sir, I couldn't.

2 THE COURT: Okay. Thank you.

3 Miss Butts, how do you know Mr. Flowers?

4 JUROR JOYCE BUTTS: I know his parents.

5 THE COURT: And how do you know them?

6 JUROR JOYCE BUTTS: Through church and through
7 his musical group.

8 THE COURT: And would those factors influence
9 you or affect you in any way in being a fair and
10 impartial juror in this case?

11 JUROR JOYCE BUTTS: No, sir.

12 THE COURT: So you can not have that influence
13 at all; is that correct?

14 JUROR JOYCE BUTTS: That's right.

15 THE COURT: Okay. Thank you.

16 And Mr. Anderson, how do you know Mr. Flowers?

17 JUROR MARIO ANDERSON: I grew up around him and
18 his family.

19 THE COURT: And which of the family would you
20 know?

21 JUROR MARIO ANDERSON: All of them.

22 THE COURT: You know all of the family. And
23 would that influence you or affect you in any way in
24 being a fair and impartial juror in this case?

25 JUROR MARIO ANDERSON: Yes, sir.

26 THE COURT: You just feel like you could not
27 sit in judgment knowing a bunch of his family.

28 JUROR MARIO ANDERSON: (Nodded.)

29 THE COURT: Thank you, Mr. Anderson.

1 Number 85. Mr. Carwile, and how do you know Mr.
2 Flowers?

3 JUROR MARK CARWILE: I don't know him. I once
4 was a classmate, and I worked with his brother around
5 1980.

6 THE COURT: You worked with Mr. Flowers'
7 brother. Which brother was that?

8 JUROR MARK CARWILE: Archie.

9 THE COURT: What was the other thing you said?

10 JUROR MARK CARWILE: I was classmates with
11 Archie.

12 THE COURT: Okay. Classmate with Archie too.
13 Would that influence you or affect you in any way in
14 being a fair and impartial juror in this case?

15 JUROR MARK CARWILE: Not at all.

16 THE COURT: Okay. Thank you.

17 Miss Lane, Number 92, what is that situation?

18 JUROR KATHERINE LANE: I know his mother and
19 father. His auntie and his uncle are neighbors.

20 THE COURT: Okay. Which aunt and uncle is
21 that?

22 JUROR KATERHINE LANE: Miss Jones and Mr. --

23 THE COURT: What is his name?

24 JUROR KATHERINE LANE: Earl Campbell.

25 THE COURT: Okay. And would those factors
26 influence you or affect you in any way in being a fair
27 and impartial juror?

28 JUROR KATHERINE LANE: No.

29 THE COURT: And so you can be friends with them

1 but still sit in judgment.

2 JUROR KATHERINE LANE: I am not friends with
3 them.

4 THE COURT: Okay. You just know them.

5 JUROR KATHERINE LANE: I know them. They are
6 in the community.

7 THE COURT: Okay. Okay.

8 JUROR KATHERINE LANE: I know them, but I am
9 not friends with them.

10 THE COURT: Okay. Okay. Thank you. I
11 appreciate you clearing that up. That would not affect
12 you in any way; is that correct?

13 JUROR KATHERINE LANE: No, sir.

14 THE COURT: Okay. Thank you.

15 Number 95. Miss Hodges, and you know Mr. Flowers.

16 JUROR SALLIE HODGES: I don't know him. I
17 worked with his father at Wal-Mart for a couple of years.
18 His mother was a nurse, worked at the nursing home where
19 my mother was a patient for six years.

20 THE COURT: And would those factors influence
21 you or affect you in any way in being a fair and
22 impartial juror in this case?

23 JUROR SALLIE HODGES: No, sir.

24 THE COURT: Okay. Thank you.

25 Number 99. Miss Corder, and how is it that you
26 would know Mr. Flowers?

27 JUROR DIANNE CORDER: Well, I know most of the
28 Flowers family. I taught Curtis when he was in the
29 eighth grade. Curtis' mother, Lola Flowers, was my

1 mother's CNA at Winona Manor for a period of time. I
2 knew Archie at Wal-Mart. I also knew Archie when he
3 worked at Jeff's One Stop. I taught Essa Campbell,
4 Curtis' aunt.

5 I also taught Hazel Jones, Curtis' aunt. Hazel has
6 been a friend of ours, because she has helped my mother
7 when we have been gone on trips. She has come to my
8 mother's house and helped a few times.

9 THE COURT: And would those factors influence
10 you or affect you in being a fair and impartial juror in
11 this case?

12 JUROR DIANNE CORDER: Would not.

13 THE COURT: So they would not. Those factors
14 would not influence you and you could sit in judgment on
15 the case and not have that be a factor.

16 JUROR DIANNE CORDER: I could.

17 THE COURT: Okay. Thank you.

18 Number 106. Mr. Gover.

19 JUROR EARL GLOVER: Glover.

20 THE COURT: Glover.

21 JUROR EARL GLOVER: Glover.

22 THE COURT: Okay. I had a "L" left out of your
23 name. I apologize.

24 Mr. Glover, how do you know Mr. Flowers?

25 JUROR EARL GLOVER: Well, I know the family,
26 whole family probably. Know his brothers, all his
27 brothers, sisters and brothers. I know his father. I
28 know his sisters and brothers. As a matter fact, I work
29 with one of his sisters every day now.

1 THE COURT: And who is that, his sister?

2 JUROR EARL GLOVER: Priscilla.

3 THE COURT: Priscilla.

4 JUROR EARL GLOVER: Yes, sir.

5 THE COURT: And that is Mr. Flowers' sister.

6 JUROR EARL GLOVER: Sister.

7 THE COURT: And where do y'all work?

8 JUROR EARL GLOVER: Heat Craft Luvata.

9 THE COURT: Okay.

10 JUROR EARL GLOVER: Some folks know it as Heat
11 Craft but it is Luvata really now.

12 THE COURT: Okay. Yeah, I am one of those. I
13 still thought it was Heat Craft.

14 And would those factors influence you or affect you
15 in being a fair and impartial juror in this case?

16 JUROR EARL GLOVER: Yes, sir, I think it would.

17 THE COURT: Okay. Thank you, Mr. Glover.

18 And Number 110. Miss Legg, how do you know Mr.
19 Flowers?

20 JUROR CONNIE LEGG: I do not know Mr. Flowers
21 personally. I know his brother Archie. He worked out at
22 the park, umpires baseball games. My husband also works
23 out there.

24 THE COURT: And would that influence you or
25 affect you in any way in being a fair and impartial juror
26 in this case?

27 JUROR CONNIE LEGG: No.

28 THE COURT: Okay. Thank you.

29 Number 126. Miss Caffey, how do you know Mr.

1 Flowers?

2 JUROR LOUISE CAFFEY: I taught Curtis in
3 elementary school, along with his sisters.

4 THE COURT: You taught him.

5 JUROR LOUISE CAFFEY: I taught him.

6 THE COURT: And what grade was that?

7 JUROR LOUISE CAFFEY: It was library. I was
8 librarian at the school, and he came through the library.

9 THE COURT: Okay.

10 JUROR LOUISE CAFFEY: And his sister.

11 THE COURT: Do you know any of his other
12 relatives?

13 JUROR LOUISE CAFFEY: Probably do but not, not
14 well. I'd recognize names.

15 THE COURT: But don't really come to mind then.

16 JUROR LOUISE CAFFEY: No.

17 THE COURT: Okay. Would the fact that you knew
18 Mr. Flowers through the school where you work, would that
19 influence you or affect you in any way in being a fair
20 and impartial juror in this case?

21 JUROR LOUISE CAFFEY: No, sir.

22 THE COURT: Okay. Thank you.

23 And Mr. Turner, how did you know Mr. Flowers?

24 JUROR JIMMIE TURNER: Just coming up and
25 hanging out around him in the project and things.
26 Basketball. Just it was...

27 THE COURT: So y'all played ball and just
28 generally hung out.

29 JUROR JIMMIE TURNER: Yes, sir.

1 THE COURT: And do you know any of his family?

2 JUROR JIMMIE TURNER: I know quite a few of
3 them.

4 THE COURT: And would those factors influence
5 you or affect you in being a fair and impartial juror in
6 this case?

7 JUROR JIMMIE TURNER: It would.

8 THE COURT: Okay. Thank you, Mr. Turner.

9 One-thirty-three. Miss Thompson, and how do you
10 know Mr. Flowers?

11 JUROR EULANDIA THOMPSON: I don't know him
12 personally, but I do know his father and his brother from
13 singing at our church from their group.

14 THE COURT: And would that be a factor or
15 influence you at all in being a fair and impartial juror
16 in this case?

17 JUROR EULANDIA THOMPSON: No, sir, it would
18 not.

19 THE COURT: Okay. Thank you.

20 Miss Robinson, how do you know Mr. Flowers?

21 JUROR ANN ROBINSON: Classmates.

22 MR. CARTER: What number is she, Judge?

23 THE COURT: Number 135.

24 And y'all went to school here at Winona together.

25 JUROR ANN ROBINSON: (Nodded.)

26 THE COURT: And did y'all graduate in the same
27 class?

28 JUROR ANN ROBINSON: No, sir. He come out the
29 year after I did.

1 THE COURT: Y'all --

2 JUROR ANN ROBINSON: We were classmates.

3 THE COURT: But pretty much at the same time.
4 Just a year apart in school.

5 JUROR ANN ROBINSON: (Nodded.)

6 THE COURT: Would, would that be a factor or
7 influence you at all in being a fair and impartial juror?

8 JUROR ANN ROBINSON: No, sir.

9 THE COURT: And do you know of any of his
10 family or...

11 JUROR ANN ROBINSON: Yes, sir.

12 THE COURT: Which family do you know?

13 JUROR ANN ROBINSON: His uncle Roscoe. And I
14 know his father from Wal-Mart.

15 THE COURT: And would that be a factor at all
16 in being a fair and impartial juror?

17 JUROR ANN ROBINSON: (Shook head.)

18 THE COURT: Okay. Thank you.

19 Number 140. Miss Newman, how do you know Mr.
20 Flowers?

21 JUROR ANN NEWMAN: I don't know him personally,
22 but I work with his mother and his auntie at the nursing
23 home.

24 THE COURT: Now say that again. I couldn't
25 hear it.

26 JUROR ANN NEWMAN: I don't know him personally,
27 but I work with his mother and his aunt at the nursing
28 home.

29 THE COURT: That would be his mother and then

1 Miss Campbell.

2 JUROR ANN NEWMAN: Um-hum.

3 THE COURT: And do you see his aunt pretty
4 regularly out there?

5 JUROR ANN NEWMAN: Yes, sir.

6 THE COURT: And I take it his momma is maybe
7 retired, doesn't work there.

8 JUROR ANN NEWMAN: Yes, sir.

9 THE COURT: And would that influence you, those
10 factors influence you or affect you in any way in being a
11 fair and impartial juror in this case?

12 JUROR ANN NEWMAN: Yes, sir.

13 THE COURT: Okay. Thank you.

14 And Number 144. Mr. Collins, and how is it that you
15 would know Mr. Flowers?

16 JUROR GEORGE COLLINS: Through his brother
17 Archie. Coached him in -- Archie in baseball and
18 softball.

19 THE COURT: And would that be a factor or
20 influence you in any way in being a fair and impartial
21 juror in this case?

22 JUROR GEORGE COLLINS: No, sir.

23 THE COURT: Okay. Thank you.

24 Number 151. Miss Kennedy, and how is it that you
25 would know Mr. Flowers?

26 JUROR STACY KENNEDY: Friends with his sister.

27 THE COURT: Friends of his sister. And what is
28 her name?

29 JUROR STACY KENNEDY: Sherita Flowers. Sherita

1 Flowers.

2 THE COURT: Sherita Flowers. And how often do
3 you and Miss Flowers see each other?

4 JUROR STACY KENNEDY: We used to hang out.

5 THE COURT: You used to hang out.

6 JUROR STACY KENNEDY: Yes, sir.

7 THE COURT: And would that be a factor or
8 influence you in being a fair and impartial juror in this
9 case?

10 JUROR STACY KENNEDY: Yes, sir.

11 THE COURT: Thank you, Miss Kennedy.

12 And Number 55. Miss Bailey, and how do you know
13 him?

14 JUROR SUZANNE BAILEY: I knew him through
15 school, and he graduated with my son or was in my son's
16 graduating class.

17 THE COURT: Okay. And would that be a factor
18 or would that influence you in any way in being a fair
19 and impartial juror in this case?

20 JUROR SUZANNE BAILEY: No, sir.

21 THE COURT: Okay. Thank you.

22 And Mr. Williams, how did -- how did you know Mr.
23 Flowers?

24 JUROR JAMES WILLIAMS: I used to work with his
25 brother.

26 THE COURT: Was that Archie?

27 JUROR JAMES WILLIAMS: Yes, sir.

28 THE COURT: Where did y'all work together?

29 JUROR JAMES WILLIAMS: Richardson Furniture

1 down by Wal-Mart.

2 THE COURT: What was the name of the place?

3 JUROR JAMES WILLIAMS: Richardson Furniture.

4 THE COURT: Richardson. And how long ago was
5 that?

6 JUROR JAMES WILLIAMS: '92. '93. '92.

7 THE COURT: About 10 -- about 15 years ago.

8 JUROR JAMES WILLIAMS: (Nodded.)

9 THE COURT: And would that be a factor or
10 influence you at all in being a fair and impartial juror
11 in this case?

12 JUROR JAMES WILLIAMS: No, sir.

13 THE COURT: Okay. Thank you.

14 And Number 99. Yes, ma'am. Miss Corder.

15 JUROR DIANNE CORDER: I forgot to add that I
16 did teach all of Curtis' brothers and sisters.

17 THE COURT: Okay. And would that be a factor
18 or influence you in being a fair and impartial juror?

19 JUROR DIANNE CORDER: It would not be a factor.

20 THE COURT: Ma'am.

21 JUROR DIANNE CORDER: It would not be a factor.

22 THE COURT: Okay. Thank you.

23 I want to know now, ladies and gentlemen, if any of
24 you --

25 MR. DEGRUY: Judge.

26 THE COURT: Oh, I'm sorry. I did not see you.
27 This is Number 155.

28 Miss Bailey, what, what is that situation?

29 JUROR SUZANNE BAILEY: I might state I was a

1 teacher. And I did teach several of these folks that
2 have been mentioned. I did not realize that some of them
3 were kin to Curtis.

4 THE COURT: And would the fact that you taught
5 some of his relatives influence you or be a factor in you
6 being a fair and impartial juror?

7 JUROR SUZANNE BAILEY: No.

8 THE COURT: I want to know now if any of you
9 have been the victim of some violent-type crime or you
10 have got any relatives that were the victim of some type
11 of violent crime. And if you have that type situation,
12 I'll ask you, please, to stand at this time.

13 And Number 111. Miss Laster, and I believe you had
14 said in your questionnaire that you had had an uncle that
15 was murdered.

16 JUROR DEBORAH LASTER: Yes. Last year.

17 THE COURT: And where was that?

18 JUROR DEBORAH LASTER: It is in Holmes County.

19 THE COURT: And any arrests been made?

20 JUROR DEBORAH LASTER: The man who killed him
21 was killed that same day in a shoot-out with law
22 officers.

23 THE COURT: Okay. Would that be a factor or
24 influence you in being a fair and impartial juror in this
25 case?

26 JUROR DEBORAH LASTER: No, sir.

27 THE COURT: Okay. Thank you.

28 And Miss Boles, what is that situation?

29 JUROR RUTHIE BOLES: I had a sister to be

1 murdered, and I also had a nephew murder somebody.

2 THE COURT: And where was the sister? Where,
3 where did she live?

4 JUROR RUTHIE BOLES: Here in Winona.

5 THE COURT: And how long ago was that?

6 JUROR RUTHIE BOLES: It's been about 20 years.

7 THE COURT: Okay. And, and what was the other
8 relative now?

9 JUROR RUTHIE BOLES: A nephew.

10 THE COURT: And he was also murdered.

11 JUROR RUTHIE BOLES: No. He murdered somebody.

12 THE COURT: Okay. Well, first about your
13 sister, would the fact that you have a sister that was
14 murdered, would that influence you or affect you in any
15 way in being a fair and impartial juror in this case?

16 JUROR RUTHIE BOLES: No.

17 THE COURT: And I believe you said your nephew
18 was convicted of murder.

19 JUROR RUTHIE BOLES: Right.

20 THE COURT: And where was that?

21 JUROR RUTHIE BOLES: Here in Montgomery County.

22 THE COURT: And what was his name?

23 JUROR RUTHIE BOLES: Michael Forrest.

24 THE COURT: And would that be a factor or
25 influence you in being a fair and impartial juror in this
26 case?

27 JUROR RUTHIE BOLES: No.

28 THE COURT: Okay. Thank you.

29 And Miss Corder, I believe you had said you had --

1 your brother's family was robbed in an armed robbery
2 incident.

3 JUROR DIANNE CORDER: (Nodded.)

4 THE COURT: How long ago was that?

5 JUROR DIANNE CORDER: About a year or so.

6 THE COURT: And would anything about that be a
7 factor or influence you in being a fair and impartial
8 juror?

9 JUROR DIANNE CORDER: No, sir.

10 THE COURT: Okay. Thank you.

11 And Number 16. Your father was murdered.

12 JUROR DAWN PALMERTREE: Yes.

13 THE COURT: And how long ago was that?

14 JUROR DAWN PALMERTREE: It's about about 27
15 years ago.

16 THE COURT: Was that in this county or some
17 other county?

18 JUROR DAWN PALMERTREE: Montgomery County.

19 THE COURT: And would that be a factor or
20 influence you at all in being a fair juror in this case.

21 JUROR DAWN PALMERTREE: No, sir. No, sir.

22 THE COURT: Okay. Thank you.

23 And Number 38. And I believe you had, had a family
24 member murdered.

25 JUROR MELODIE CORLEY: Yes, sir. My husband --

26 THE COURT: And who was that family member?

27 JUROR MELODIE CORLEY: My husband's
28 grandfather.

29 THE COURT: And how long ago was that?

1 JUROR MELODIE CORLEY: Been 22 years ago.

2 THE COURT: And were y'all married at the time?

3 JUROR MELODIE CORLEY: Yes, sir.

4 THE COURT: And where did that happen?

5 JUROR MELODIE CORLEY: Carroll County.

6 THE COURT: And would that influence you or
7 affect you in being a fair and impartial juror in this
8 case?

9 JUROR MELODIE CORLEY: No, sir.

10 THE COURT: Okay. Thank you.

11 Number 46. Miss Bond, what is that situation?

12 JUROR JULIA BOND: My nephew was arrested about
13 six years ago for drugs.

14 THE COURT: And would that influence you or be
15 a factor in you being a fair and impartial juror in this
16 case?

17 JUROR JULIA BOND: It probably would, because
18 he is on probation.

19 THE COURT: And it would be a factor or
20 influence you.

21 JUROR JULIA BOND: Probably.

22 THE COURT: And what is his name?

23 JUROR JULIA BOND: Thomas Manning.

24 THE COURT: Okay. Thomas.

25 JUROR JULIA BOND: Thomas Manning.

26 THE COURT: Okay. Thank you.

27 Number 48. And who was it that you had that...

28 JUROR TONNY SEALS: I had a sister-in-law that
29 was murdered in 2002 in Kosciusko.

1 THE COURT: And would that be a factor or
2 influence you in being a fair and impartial juror in this
3 case?

4 JUROR TONNY SEALS: No.

5 THE COURT: Okay. Thank you.

6 Miss Rodgers, I believe you said in the
7 questionnaire that you had a family member murdered. Who
8 was that?

9 JUROR MELBA RODGERS: My uncle by marriage.

10 THE COURT: And how long ago was that?

11 JUROR MELBA RODGERS: Two years.

12 THE COURT: And where did that occur?

13 JUROR MELBA RODGERS: Holmes County.

14 THE COURT: And would that influence you or
15 affect you in being a fair and impartial juror in this
16 case?

17 JUROR MELBA RODGERS: No, sir.

18 THE COURT: Okay. Thank you.

19 Mr. Ratliff, who was it that was murdered or victim
20 of violent crime in your family?

21 JUROR DENNIS RATLIFF: Uncle. Brother. And
22 several kin folks.

23 THE COURT: And what type crime victims were
24 they?

25 JUROR DENNIS RATLIFF: My uncle was domestic
26 violence.

27 THE COURT: Okay. Was, was he the one that was
28 charged or was he --

29 JUROR DENNIS RATLIFF: He the one that

1 deceased.

2 THE COURT: Okay. Uncle charged with
3 domestic...

4 JUROR DENNIS RATLIFF: He was -- he was killed.

5 THE COURT: Oh, he was killed. He was the
6 victim of -- somebody murdered him then. And did that
7 happen in this county or some other?

8 JUROR DENNIS RATLIFF: Yes.

9 THE COURT: And what was his name?

10 JUROR DENNIS RATLIFF: Richard. Richard.

11 THE COURT: Okay. And...

12 JUROR DENNIS RATLIFF: Brother.

13 THE COURT: Okay. What about your brother?

14 JUROR DENNIS RATLIFF: It was in Grenada
15 County. It was -- he was killed.

16 THE COURT: And what was his name?

17 JUROR DENNIS RATLIFF: Frank. Franklin
18 Ratliff.

19 THE COURT: And has anybody ever been arrested
20 up there in that?

21 JUROR DENNIS RATLIFF: No.

22 THE COURT: And any other relative?

23 JUROR DENNIS RATLIFF: Several cousins. Put
24 them in there.

25 THE COURT: And where were they?

26 JUROR DENNIS RATLIFF: Montgomery County.

27 THE COURT: And would those factors influence
28 you? You've got a brother and an uncle and -- that's
29 been murdered. Would that influence you or be a factor

1 in you being a fair and impartial juror in this case?

2 JUROR DENNIS RATLIFF: Yes.

3 THE COURT: So you just feel like because of
4 those circumstances with your family; is that correct?

5 JUROR DENNIS RATLIFF: Yes.

6 THE COURT: Okay. You can be seated. Thank
7 you.

8 Number 64. Mr. Groves, and I believe you put, put
9 in your questionnaire you had had family member murdered.
10 and who, who was that?

11 JUROR DANNY GROVES: It would be Ronald
12 Perkins. First cousin.

13 THE COURT: And where did that happen?

14 JUROR DANNY GROVES: Shelby County.

15 THE COURT: Isn't that Tennessee?

16 JUROR DANNY GROVES: Yes, sir.

17 THE COURT: How long ago was that?

18 JUROR DANNY GROVES: Right at 15 years.

19 THE COURT: Would that be a factor or influence
20 you in any way in you being a fair and impartial juror in
21 this case?

22 JUROR DANNY GROVES: No, sir. No, sir.

23 THE COURT: Okay. Thank you.

24 And Number 70. Miss Purnell, you had a family
25 member victim of a home invasion; is that correct?

26 JUROR MARY PURNELL: Yes, sir.

27 THE COURT: And any other situations?

28 JUROR MARY PURNELL: No, sir.

29 THE COURT: And where did that occur?

1 JUROR MARY PURNELL: Harvey, Illinois.

2 THE COURT: And how -- what family member was
3 that?

4 JUROR MARY PURNELL: My brother.

5 THE COURT: And would that influence you or be
6 a factor in you being a fair and impartial juror in this
7 case?

8 JUROR MARY PURNELL: No, sir.

9 THE COURT: Okay. Thank you.

10 And Number 75. Miss Everett, and what is that
11 situation?

12 JUROR ROSEMARY EVERETT: My son was killed.

13 THE COURT: And what was his name?

14 JUROR ROSEMARY EVERETT: Yorita. Y-o-r-i-t-a.

15 THE COURT: Yorita. Okay. And Everett was his
16 last name.

17 JUROR ROSEMARY EVERETT: No. Griffin.

18 Griffin.

19 THE COURT: Griffin.

20 JUROR ROSEMARY EVERETT: With an "i".

21 THE COURT: Okay. How long ago did that
22 happen?

23 JUROR ROSEMARY EVERETT: September 19, 1996.

24 THE COURT: And where did it occur?

25 JUROR ROSEMARY EVERETT: Leflore County.

26 THE COURT: And would that influence you or be
27 a factor in you being a fair and impartial juror in this
28 case?

29 JUROR ROSEMARY EVERETT: No.

1 THE COURT: Okay. Thank you.

2 And Miss Butts, what is the situation with you
3 having a family member?

4 JUROR JOYCE BUTTS: My aunt killed my uncle.
5 My brother was killed, was murdered. And I have several
6 nephews.

7 THE COURT: And you've got who with your aunt?
8 Your uncle was killed by your aunt? What was the next
9 one?

10 JUROR JOYCE BUTTS: My brother.

11 THE COURT: And where was the situation
12 involving your aunt and uncle?

13 JUROR JOYCE BUTTS: Montgomery County.

14 THE COURT: And how long ago?

15 JUROR JOYCE BUTTS: 1970.

16 THE COURT: 1970. And then how about your
17 brother?

18 JUROR JOYCE BUTTS: 1994.

19 THE COURT: Did that happen in this county as
20 well?

21 JUROR JOYCE BUTTS: Grenada.

22 THE COURT: Grenada. And what was his name?

23 JUROR JOYCE BUTTS: Frank Ratliff.

24 THE COURT: Was anybody ever arrested in that?

25 JUROR JOYCE BUTTS: No, sir.

26 THE COURT: And then you were going to say some
27 other things.

28 JUROR JOYCE BUTTS: I have several nephews.

29 THE COURT: And have they been crime victims?

1 JUROR JOYCE BUTTS: Of drugs. Yes, sir.

2 THE COURT: They have been drug victims --

3 JUROR JOYCE BUTTS: Drug --

4 THE COURT: -- or they have been arrested?

5 JUROR JOYCE BUTTS: Arrested for drugs,
6 trafficking.

7 THE COURT: And would any of those factors
8 influence you or affect you in being a fair and impartial
9 juror in this case?

10 JUROR JOYCE BUTTS: No, sir.

11 THE COURT: Okay. Thank you.

12 And Number 48. Mr. Seals, you had something else.

13 JUROR TONNY SEALS: Yes, sir. I failed to say
14 about my brother. He was killed in 1987. December 24,
15 1987.

16 THE COURT: And would that influence you or
17 affect you in being a fair and impartial juror?

18 JUROR TONNY SEALS: It would affect me.

19 THE COURT: So the fact that your brother, that
20 would probably bring memories up, I guess and --

21 JUROR TONNY SEALS: Yes, sir.

22 THE COURT: And you just feel like you could
23 not be fair because of that; is that correct?

24 JUROR TONNY SEALS: Yes, sir.

25 THE COURT: Okay. Thank you.

26 Number 93.

27 JUROR HARLEY MATTHEWS: I have a nephew in
28 Alabama that has been convicted.

29 THE COURT: And would that influence you or

1 affect you in any way in being a fair and impartial
2 juror?

3 JUROR HARLEY MATTHEWS: No, sir.

4 THE COURT: Okay. Thank you.

5 Numbered 99. Miss Corder, what is that situation?

6 JUROR DIANNE CORDER: I had an aunt, my
7 father's sister, who was murdered by her husband in
8 Webster County 48 years ago, June 6, 1960.

9 THE COURT: Ma'am.

10 JUROR DIANNE CORDER: June 6, 1960, is when it
11 occurred.

12 THE COURT: And would that influence you or
13 affect you in being a fair and impartial juror in this
14 case?

15 JUROR DIANNE CORDER: No, sir, it would not.

16 THE COURT: Okay. Thank you.

17 And Mr. Glover, what, what is the situation? You
18 had a family member murdered?

19 JUROR EARL GLOVER: Yes, sir. I had a brother
20 that got killed in Milwaukee.

21 THE COURT: And, and how long ago was that?

22 JUROR EARL GLOVER: It probably be about 25 or
23 26 years ago.

24 THE COURT: And would that influence you or be
25 a factor in you being a fair and impartial juror in this
26 case?

27 JUROR EARL GLOVER: Probably so.

28 THE COURT: So you've got some doubts about
29 that; is that correct?

1 JUROR EARL GLOVER: Yes, sir. Yes, sir.

2 THE COURT: Okay. Thank you.

3 Number 147. And I believe you put in your
4 questionnaire that you had been assaulted, victim of
5 aggravated assaulted.

6 JUROR JAMITA SMITH: Yes.

7 THE COURT: And where did that occur?

8 JUROR JAMITA SMITH: Chicago, Illinois.

9 Chicago, Illinois. And my --

10 THE COURT: And how long ago was that?

11 JUROR JAMITA SMITH: Approximately, like, six
12 years ago.

13 THE COURT: And was anybody arrested?

14 JUROR JAMITA SMITH: Yes.

15 THE COURT: And you were going to say something
16 else.

17 JUROR JAMITA SMITH: Yes. My uncle shot my
18 aunt in the head. She didn't die, but he got convicted.

19 THE COURT: And he was convicted.

20 JUROR JAMITA SMITH: Yes. In Chicago,
21 Illinois. And I lost a best friend. My best friend was
22 gunned down in the same place. And my cousin got -- was
23 in a robbery at her house, and she was murdered in
24 Chicago, Illinois.

25 THE COURT: And would those factors influence
26 you or affect you --

27 JUROR JAMITA SMITH: No, sir.

28 THE COURT: -- in any way?

29 JUROR JAMITA SMITH: No, sir.

1 THE COURT: Okay. Thank you.

2 Number 153. Miss Butts, what is that situation?

3 JUROR NORA BUTTS: The situation was aggravated
4 assault.

5 THE COURT: And --

6 JUROR NORA BUTTS: There --

7 THE COURT: Were, were you the victim of an
8 aggravated assaulted?

9 JUROR NORA BUTTS: There were two more charges.

10 THE COURT: Okay.

11 JUROR NORA BUTTS: Kidnapping and attempted
12 rape.

13 THE COURT: And how long ago was that?

14 JUROR NORA BUTTS: Back in '91.

15 THE COURT: 1991.

16 JUROR NORA BUTTS: Correct.

17 THE COURT: And was somebody arrested?

18 JUROR NORA BUTTS: In '93.

19 THE COURT: And were they convicted?

20 JUROR NORA BUTTS: Yes.

21 THE COURT: And would that influence you or be
22 a factor in you being a fair and impartial juror in this
23 case?

24 JUROR NORA BUTTS: It would not.

25 THE COURT: Okay. Thank you.

26 And Miss McGowan, you had a friend or something
27 murdered; is that correct?

28 JUROR BEVERLY MCGOWAN: My son.

29 THE COURT: Son. I'm sorry. It didn't --

1 wasn't clear on the questionnaire, or, or I didn't read
2 it all the way or something. And how long ago was that?

3 JUROR BEVERLY MCGOWAN: Ten years.

4 THE COURT: And where did that occur?

5 JUROR BEVERLY MCGOWAN: Attala.

6 THE COURT: Where?

7 JUROR BEVERLY MCGOWAN: Attala County.

8 THE COURT: And was anybody arrested?

9 JUROR BEVERLY MCGOWAN: No, sir.

10 THE COURT: And would that be a factor or
11 influence you?

12 JUROR BEVERLY MCGOWAN: No, sir.

13 THE COURT: So you could be a fair and
14 impartial juror.

15 JUROR BEVERLY MCGOWAN: No, sir.

16 THE COURT: You --

17 JUROR BEVERLY MCGOWAN: I could be fair.

18 THE COURT: Okay. Thank you.

19 Anyone else?

20 Yes, ma'am.

21 JUROR CINDY JOHNSON: I've got a question.

22 You're talking about a violent crime, one that results in
23 murder? Or are you talking about --

24 THE COURT: Well, I am talking about like a
25 murder, armed robbery, rape, kidnapping, that type, where
26 there was some violence or force against -- that was used
27 against someone. You know, like those, those were the
28 type. But if you have got something that you feel like,
29 you know...

1 JUROR CINDY JOHNSON: Well, my oldest child was
2 robbed at Bridges. He is 16.

3 THE COURT: And how long ago was that?

4 JUROR CINDY JOHNSON: It was after the
5 questionnaire. It was a couple of months ago.

6 THE COURT: Has anybody been arrested on that?

7 JUROR CINDY JOHNSON: There was someone
8 arrested.

9 THE COURT: And would the fact that your child
10 was robbed influence you or be a factor at all in you
11 being fair and impartial?

12 JUROR CINDY JOHNSON: No. Huh-huh.

13 THE COURT: Okay. Thank you.

14 Then Miss Holland.

15 JUROR TINA HOLLAND: My, my family was not the
16 victim, but I had two nephews that were charged with.
17 One was murder and one was forgery.

18 THE COURT: And how long ago was that?

19 JUROR TINA HOLLAND: Sixteen years ago. And
20 then one was like a year ago.

21 THE COURT: Which one was a year ago?

22 JUROR TINA HOLLAND: The forgery. And then the
23 nephew that was charged with murder 16 years ago is still
24 there for some other charges.

25 THE COURT: Okay. What was his name?

26 JUROR TINA HOLLAND: Richie Bryant. Richard
27 Bryant.

28 THE COURT: And would those factors influence
29 you or be a factor in you being a fair and impartial

1 juror at all in this case?

2 JUROR TINA HOLLAND: No, sir.

3 THE COURT: Okay. Thank you.

4 And Number 133. Miss Thompson, what is the
5 situation?

6 JUROR EULANDIA THOMPSON: I was like she was.
7 I wasn't really clear. But then if you are talking about
8 people that have committed crimes also, I have two
9 nephews through marriage that were charged with crimes.

10 THE COURT: And what were those crimes?

11 JUROR EULANDIA THOMPSON: One was burglary with
12 a weapon, and the other one was running from the law.

13 THE COURT: And would that influence you at all
14 in being a fair and impartial juror in this case?

15 JUROR EULANDIA THOMPSON: No, sir, it would
16 not.

17 THE COURT: And I believe you put on your
18 questionnaire maybe a nephew convicted, by marriage,
19 convicted of robbery; is that correct?

20 JUROR EULANDIA THOMPSON: That's right.

21 THE COURT: Was that the same one you are
22 talking about?

23 JUROR EULANDIA THOMPSON: That's the same one
24 I'm talking about. The robbery.

25 THE COURT: Okay. Okay. Thank you.

26 JUROR EULANDIA THOMPSON: Um-hum.

27 THE COURT: Miss McCuiston, what is the
28 situation?

29 JUROR LORA MCCUISTON: My brother-in-law was

1 convicted of murder.

2 THE COURT: And how long ago?

3 JUROR LORA MCCUISTON: Over 20 years ago.

4 THE COURT: And would that be a factor or
5 influence you in being a fair and impartial juror?

6 JUROR LORA MCCUISTON: Yes.

7 THE COURT: And Number 92. Miss Lane.

8 JUROR KATHERINE LANE: My son.

9 THE COURT: And was he -- been charged with
10 something or --

11 JUROR KATHERINE LANE: He is serving time.

12 THE COURT: And what charge?

13 JUROR KATHERINE LANE: Drugs.

14 THE COURT: What is his name?

15 JUROR KATHERINE LANE: James Kemp. James Lamar
16 Kemp.

17 THE COURT: Okay. And would that be a factor
18 or influence you in any way in being a fair juror in this
19 case?

20 JUROR KATHERINE LANE: No.

21 THE COURT: Okay. Thank you.

22 And Number 112. What is this situation?

23 JUROR SHELIA CLAY: One brother-in-law
24 currently serving time in Bolivar County for rape. And
25 the other one is -- he is out on probation.

26 THE COURT: And he was arrested for robbery.

27 JUROR SHELIA CLAY: Um-hum.

28 THE COURT: And what are these brother-in-law's
29 names?

1 JUROR SHELIA CLAY: The one for rape is Calvin
2 Robinson from Leflore County. And the one for robbery is
3 Filaray (phonetic) Townsend.

4 THE COURT: What was the name again?

5 JUROR SHELIA CLAY: Filaray Townsend.

6 THE COURT: And would these factors influence
7 you or affect you in any way in being a fair and
8 impartial juror?

9 JUROR SHELIA CLAY: No, sir.

10 THE COURT: Okay. Thank you.

11 Number 147. Miss Smith.

12 JUROR JAMITA SMITH: I told you it was
13 approximately six years ago. It happened in 2003, maybe
14 2004.

15 THE COURT: That was when you were --

16 JUROR JAMITA SMITH: Yes.

17 THE COURT: So it happened in 2003.

18 JUROR JAMITA SMITH: Yes.

19 THE COURT: I appreciate you clearing that up.
20 Number 15.

21 JUROR RONALD BENNETT: My wife was -- had the
22 unfortunate opportunity to be in the bank when it was
23 robbed in 1969.

24 THE COURT: Would that be a factor or influence
25 you in this case?

26 JUROR RONALD BENNETT: No, sir.

27 THE COURT: It would not.

28 JUROR RONALD BENNETT: No, sir.

29 THE COURT: Okay. Thank you.

1 And I think several have already answered the
2 question, but I was going to ask next if any of you had a
3 family member that was convicted of some type of crime.

4 I know several of you have spoken up. You don't
5 have to stand again.

6 But any of the rest of you that have not spoken up
7 on that, if you have some family member that has been
8 convicted of the commission of some crime, if you will,
9 please stand and let us know that.

10 I take it there is no -- okay.

11 And Mr. Seals, what was that situation?

12 JUROR TONNY SEALS: First cousin. She was the
13 victim. Murdered her husband. It happened in Montgomery
14 County.

15 THE COURT: And how long ago was that?

16 JUROR TONNY SEALS: Like around '85 or
17 somewhere.

18 THE COURT: And would that influence you or be
19 a factor in you being a fair and impartial juror?

20 JUROR TONNY SEALS: No, that wouldn't.

21 THE COURT: Okay. Thank you.

22 Miss Houston, what is that situation?

23 JUROR DUTCHIE HOUSTON: A brother.

24 THE COURT: And what was he --

25 JUROR DUTCHIE HOUSTON: Armed robbery.

26 THE COURT: And how long ago was that?

27 JUROR DUTCHIE HOUSTON: About ten years.

28 THE COURT: Was he convicted of that?

29 JUROR DUTCHIE HOUSTON: Yes, sir.

1 THE COURT: And would that be a factor or
2 influence you in being a fair and impartial juror in this
3 case?

4 JUROR DUTCHIE HOUSTON: Yes, sir. Yes, sir.

5 THE COURT: So it would influence you. Okay.
6 Thank you.

7 Number 60. Miss Blakely, and what is that
8 situation?

9 JUROR SHIRLEY BLAKELY: My husband has, I know
10 of two nephews that has served time for drugs.

11 THE COURT: Would that -- those factors
12 influence you at all in being a fair and impartial juror?

13 JUROR SHIRLEY BLAKELY: No.

14 THE COURT: Okay. Thank you.

15 Number 81. Mr. Anderson, and I believe you said you
16 had an uncle convicted of murder.

17 JUROR MARIO ANDERSON: Yes, sir.

18 THE COURT: And where was that? Here? Here in
19 this county?

20 JUROR MARIO ANDERSON: Yes, sir.

21 THE COURT: And how long ago was that?

22 JUROR MARIO ANDERSON: Twelve years.

23 THE COURT: And would that be a factor or
24 influence you in being a fair juror in this case?

25 JUROR MARIO ANDERSON: No.

26 THE COURT: Okay. Thank you.

27 And Number 99. Miss Corder.

28 JUROR DIANNE CORDER: I have a second cousin
29 who is currently serving time in a jail in Cleveland,

1 Mississippi, for drugs, selling drugs.

2 THE COURT: And would that be a factor or
3 influence you in any way?

4 JUROR DIANNE CORDER: No.

5 THE COURT: Okay. Thank you.

6 135. And --

7 JUROR ANN ROBINSON: My grandfather was
8 convicted of --

9 THE COURT: I, I could not hear that.

10 JUROR ANN ROBINSON: My grandfather was
11 convicted of killing my uncle. It was in...

12 THE COURT: How long ago was that?

13 JUROR ANN ROBINSON: I think it was in May of
14 '83.

15 THE COURT: May of '83.

16 JUROR ANN ROBINSON: Or something like that.

17 THE COURT: And would that influence you or be
18 a factor in you being a fair and impartial juror in this
19 case?

20 JUROR ANN ROBINSON: (Shook head.)

21 THE COURT: And, and I believe you said in your
22 questionnaire maybe somebody else had been convicted of
23 like firearm charges or something. Now, who was that?

24 JUROR ANN ROBINSON: My husband.

25 THE COURT: Husband. And how long ago was
26 that?

27 JUROR ANN ROBINSON: About seven years.

28 THE COURT: How long?

29 JUROR ANN ROBINSON: About seven years.

1 THE COURT: And what is his name?

2 JUROR ANN ROBINSON: Edward Ross.

3 THE COURT: Edward. And would that be a factor
4 or influence you in being a fair juror in this case?

5 JUROR ANN ROBINSON: (Shook head.)

6 THE COURT: Okay. Thank you.

7 Then, Miss Bailey, and you've got a cousin that's
8 got in trouble for crystal meth.

9 JUROR ANGELA BAILEY: Right.

10 THE COURT: And would that influence you or
11 affect you in being a fair and impartial juror in this
12 case?

13 JUROR ANGELA BAILEY: No, it wouldn't.

14 THE COURT: Okay. Thank you. Anyone else that
15 has got a situation where some relative is convicted?

16 Ladies and gentlemen, I am going to allow you a
17 recess at this time.

18 I'll ask you during this recess, please do not
19 discuss this case with anyone or among yourselves. You
20 can't talk to the lawyers, parties, witnesses or anyone
21 involved in the case.

22 And if you will all step out of the courtroom and be
23 back ready to come in at 10:30.

24 (THE PROSPECTIVE JURORS LEFT THE COURTROOM.)

25 THE COURT: Counsel, I thought maybe we might
26 go through the list now and look and see if there is some
27 others to be excused for cause.

28 I've -- and y'all have got plenty of experience too.
29 But if people -- a lot of them, they will just have to

1 stand up and answer the same questions over and over.
2 And it's easier to just let some people go here out like
3 we did yesterday.

4 MS. STEINER: Your Honor, jurors may wander in
5 and out.

6 THE COURT: Have we got any jurors in the
7 courtroom at this time?

8 BAILIFF BROWNING: We do. I, I need to ask you
9 something.

10 THE COURT: Well, I need all the jurors out
11 right now.

12 BAILIFF BROWNING: Okay.

13 THE COURT: Y'all make sure we don't have any
14 jurors.

15 Okay. I think the courtroom is clear.

16 Thank you for -- I thought they were actually all
17 out.

18 Okay. I'll start. I believe Number 12, Mr.
19 McKinney, had stated that he knows Mr. Flowers and worked
20 with some of Mr. Flowers' relatives.

21 MR. EVANS: Your Honor, how about Number 4?

22 THE COURT: Oh, I'm sorry. I did overlook 4.
23 I had that written and just overlooked it.

24 But Mr. Forrest said he is second cousin to Mr.
25 Flowers and could not be fair and impartial.

26 MR. EVANS: Yes, sir.

27 THE COURT: Do both sides agree there?

28 MR. CARTER: Yes, sir.

29 THE COURT: And then Number 12. Mr. McKinney

1 knows Mr. Flowers, worked with relatives of Mr. Flowers
2 and said he could not be fair and impartial.

3 Do y'all both agree there?

4 MR. EVANS: Yes, sir.

5 MR. CARTER: Yes, sir.

6 THE COURT: And let's see. Number 16. Miss
7 Palmertree. She worked at Wal-Mart several years with
8 Mr. Flowers' father. I think she thought a lot of him
9 from my indications from what she was saying and that she
10 said that would affect her and she could not be fair and
11 impartial.

12 Do y'all agree there?

13 MR. EVANS: Yes, sir.

14 MR. DEGRUY: Yes, sir.

15 THE COURT: And then Number 25 is friends with
16 Mr. Flowers' sister. Is that --

17 MR. EVANS: How about 19, Your Honor?

18 THE COURT: Nineteen has already been excused.

19 MR. EVANS: Has he? Okay. I didn't have it
20 marked off.

21 MR. HILL: We are on 25.

22 THE COURT: Right. Then Number 25 knows Mr.
23 Flowers, friends with sister and said she couldn't be
24 fair and impartial. Do y'all agree on that?

25 MR. EVANS: Yes, sir.

26 THE COURT: And Miss Young. Number 27. I
27 believe she said her -- something like Mr. Flowers'
28 nephew married to her uncle or her...

29 MR. EVANS: Sisters --

1 THE COURT: Sisters --

2 MR. EVANS: Her sister's nephew.

3 THE COURT: Right. Okay.

4 MR. EVANS: It would affect her.

5 THE COURT: She said she couldn't be fair and
6 impartial.

7 Do y'all agree?

8 MR. DEGRUY: Yes, sir.

9 THE COURT: Number 44. Miss Stovall. She
10 knows Mr. Flowers' parents. Her son is in a group with
11 Mr. Flowers' parents. And she said that would affect her
12 in being fair and impartial.

13 Do y'all agree on her?

14 MR. EVANS: Yes, sir.

15 THE COURT: Mr. Seals, Number 48, said he had
16 had a brother that was murdered in 1987 and that that
17 would affect him in being a fair and impartial juror.

18 Do y'all agree on him?

19 MR. CARTER: Yes, sir.

20 MR. EVANS: Yes, sir. And just for the record,
21 he also stated that he grew up with the defendant and his
22 brother, Archie, Jr., that they were still good friends
23 and that that would also affect him.

24 THE COURT: He had said on that that -- he
25 ended up saying he could be fair because of that. But
26 when his brother got mentioned, he said that would affect
27 him in being fair and impartial.

28 Do y'all agree?

29 MR. EVANS: Yes, sir.

1 MR. CARTER: Forty-six, too, Your Honor, I
2 believe.

3 THE COURT: I'm sorry. You're correct.

4 Number 46. She had a nephew arrested for drugs and
5 said she could not be fair and impartial because of that.

6 MR. EVANS: That's correct, Your Honor.

7 THE COURT: Do y'all agree to both?

8 MR. CARTER: Yes, sir.

9 THE COURT: Let's see. Number 50. Mr. -- Miss
10 Rash, I'm sorry, knows Mr. Flowers' parents. She often
11 attends the same church with them and participates --
12 they participate in services where she is a member.

13 Do y'all agree?

14 MR. EVANS: Yes, sir.

15 MR. CARTER: Yes, sir.

16 THE COURT: Let's see. I've got Number 54. I
17 believe she said her brother was convicted. Her --
18 (THE BACK DOOR OF THE COURTROOM WAS OPENED.)

19 Where are our other bailiffs? If they will maybe
20 stand at the door too.

21 (A BAILIFF CLOSED THE BACK DOOR OF THE COURTROOM.)

22 Brother convicted of armed robbery. And she said
23 that would influence her; is that correct?

24 MR. EVANS: Yes, sir.

25 MR. CARTER: Yes, sir.

26 THE COURT: Do y'all agree on that?

27 MR. EVANS: Yes, sir.

28 MR. HILL: Just a minute, Your Honor.

29 THE COURT: And Number 56. Mr. Ratliff's

1 brother was murdered. Franklin Ratliff. His brother was
2 murdered, and he said that he could not be a fair juror
3 because of that.

4 Do y'all agree?

5 MR. EVANS: Yes, sir.

6 THE COURT: And then Number 57. Mr. Colbert.
7 He knows Mr. Flowers. I think he, he said he teaches and
8 coaches Mr. Flowers' nephew or has. And his
9 brother-in-law and Mr. Flowers were classmates. And he
10 said because of those factors, he could not be a fair and
11 impartial juror.

12 Do y'all agree on that?

13 MR. EVANS: Yes, sir.

14 MR. CARTER: Yes.

15 THE COURT: Then Number 58. Mr. Robinson. And
16 he said he knows Mr. Flowers and knows Mr. Flowers'
17 parents and knows them from church and he could not be
18 fair and impartial.

19 MR. CARTER: Yes, sir.

20 MR. EVANS: Yes, sir.

21 THE COURT: And then Debra Anderson. Number
22 59. She said she knew all of his family, and she played
23 ball with Mr. Flowers' sister. And she said that would
24 affect her and that she could not be fair and impartial.

25 MR. EVANS: Yes, sir.

26 MR. CARTER: Agree.

27 THE COURT: And then Number 73. Miss McKinney.

28 MR. CARTER: What about 61, Your Honor?

29 MR. EVANS: Sixty-one.

1 THE COURT: Did I -- I'm sorry. Did I overlook
2 somebody?

3 MR. EVANS: Yes, sir.

4 MR. CARTER: Sixty-one.

5 THE COURT: I thought she said she would -- I
6 mean she said she was --

7 MR. EVANS: First cousin. Her grandmother's
8 brother.

9 THE COURT: Yeah. Well, I agree.
10 Realistically, I don't think a first cousin is going to
11 be able to sit.

12 Do y'all agree on that one?

13 MR. CARTER: Well...

14 MR. EVANS: She said it would affect her.

15 MR. CARTER: My records show that she said she
16 couldn't be fair.

17 THE COURT: Okay. So y'all agree on her?

18 MR. CARTER: Yes, sir.

19 MR. EVANS: Yes, sir.

20 THE COURT: And okay. Number 73. Miss
21 McKinney. She knows Mr. Flowers' family, and her
22 grandparents are members of the church where he went.
23 She also knows Johnny Earl Campbell, who, I believe, is
24 Mr. Flowers' uncle. She said she could not be fair and
25 impartial.

26 Do y'all agree?

27 MR. EVANS: Yes, sir.

28 THE COURT: And then Number 74. Miss Campbell.
29 She knows Mr. Flowers. Her sister dated Mr. Flowers and

1 that she couldn't be fair and impartial.

2 Do y'all agree there?

3 MR. EVANS: Yes, sir.

4 MR. CARTER: Yes, sir.

5 THE COURT: And then Number 76. Henry
6 Campbell, Jr. He knows Mr. Flowers. His father is
7 friends with Archie Flowers, who is Mr. Flowers' brother.
8 He said he could not be fair and impartial.

9 MR. CARTER: Agree.

10 MR. EVANS: Yes, sir.

11 THE COURT: And then Miss McCuiston. Did she
12 say her brother-in-law was convicted?

13 MR. EVANS: Yes, sir. Of murder.

14 THE COURT: And that she could not be fair and
15 impartial because of that.

16 MR. EVANS: Yes, sir.

17 THE COURT: Do y'all agree?

18 MR. CARTER: Agree.

19 THE COURT: Okay. Number 81. Mr. Anderson
20 indicated that he knows Mr. Flowers. He grew up around
21 Mr. family -- Mr. Flowers' family, knows all his family
22 and that he could not be fair and impartial.

23 MR. EVANS: Yes, sir.

24 MR. CARTER: Yes, sir.

25 THE COURT: And did Number 82 -- is --

26 MR. EVANS: Yes, sir.

27 THE COURT: Is that first cousin?

28 MR. EVANS: Yes, sir. Her first cousin is
29 charged with murder. And she is also first cousin to the

1 defendant. So that is going to be who is she is talking
2 about in the questionnaire.

3 MRS. STEINER: Number 82.

4 MR. EVANS: And said that that would affect
5 her.

6 MRS. STEINER: That's a man.

7 MR. CARTER: Eighty-two is a man, though, Doug.

8 MR. EVANS: Well, affect them.

9 MR. DEGRUY: Eighty-two.

10 MR. EVANS: Number 82. Turnage.

11 MR. DEGRUY: That's a man.

12 THE COURT: Do y'all --

13 MR. CARTER: Well, my record did show that he
14 said they are first cousins and can't be fair so...

15 THE COURT: So you agree on that one?

16 MR. CARTER: Yes, sir.

17 THE COURT: And then let's see. Number 103.

18 MR. EVANS: Curtis' grandfather and her father
19 were first cousins.

20 THE COURT: Yeah, that's what --

21 MR. EVANS: It would affect her.

22 THE COURT: I was trying to decipher my
23 scribbling here at first. And that is what it was, my
24 notes were saying.

25 And do you all agree on that?

26 MS. STEINER: What, what number are we talking
27 about, Your Honor?

28 THE COURT: One hundred three.

29 MR. CARTER: One hundred three.

1 MRS. STEINER: One hundred three. Sorry.

2 THE COURT: So y'all agree on that?

3 MR. EVANS: Yes.

4 MR. CARTER: Yes. She said she can't be fair.

5 THE COURT: Number 106. Earl Glover said he
6 had a brother that had been murdered in Milwaukee,
7 Wisconsin. And also, he knows some family members, Miss
8 Flowers. Worked with a relative of Mr. Flowers. Well,
9 in fact, he still does, works for a relative of Mr.
10 Flowers that was on the panel, Arthur Flowers, that was
11 released yesterday. And he said he could not be -- that
12 was Number 106.

13 MS. STEINER: Your Honor, my notes say that he
14 kept thinking he thought it would affect and it might.
15 Unlike everybody else who has been stricken so far, he
16 never made a definitive it would affect.

17 THE COURT: Well, I can keep him.

18 MR. EVANS: He specifically said it would
19 affect him.

20 THE COURT: We can clear it up. I will let him
21 remain for right now. This is certainly not going to be
22 the last opportunity.

23 MR. HILL: Just --

24 MR. EVANS: He also said that the fact that his
25 brother was murdered in Milwaukee would also affect him.

26 MS. STEINER: Your right, Your Honor.

27 MR. HILL: He said would probably affect him,
28 and he said that he knew the defendant's whole family.
29 He worked with the defendant's sister Priscilla. And he

1 was working with her every day now and that would affect
2 him. Then when he asked about the brother murdered in
3 Milwaukee, that's when he said that probably would affect
4 him.

5 MS. STEINER: Thank you, Your Honor. I
6 couldn't see probably and might were both written down.

7 THE COURT: Okay. Are y'all acceptable to him
8 going for cause?

9 MR. CARTER: Yes, sir.

10 THE COURT: Okay. Then 129. Jimmie Turner.
11 He knows Mr. Flowers, played ball with him, hung out with
12 him, knows quite a few family members of Mr. Flowers and
13 said because of those factors he could not be fair and
14 impartial.

15 MR. CARTER: Yes, sir.

16 MR. EVANS: Yes, sir.

17 THE COURT: And Ann Newman. Number 40 -- 140.
18 I'm sorry. She knows Mr. Flowers, worked with his mother
19 and aunt at the Winona Manor healthcare facility. And
20 she said those factors would influence her in being fair
21 and impartial.

22 Do y'all agree with that?

23 MR. CARTER: Agree.

24 MR. EVANS: Yes, sir.

25 THE COURT: Stacy Kennedy. Number 151. I
26 believe she said she is a friend of Sherita Flowers, Mr.
27 Flowers' sister. She said that would influence her and
28 affect her in being fair and impartial.

29 MR. CARTER: We agree, Your Honor.

1 MR. EVANS: Yes, sir.

2 THE COURT: And Danny Tompkins. Number 156.
3 No. I'm sorry. That was a note from yesterday, and I
4 had written something down wrong and meant to scratch
5 that note out.

6 And I believe that is it.

7 Do y'all see any others right now?

8 MR. EVANS: That is all we have marked right
9 now.

10 THE COURT: Well, I am going to step down just
11 for a minute.

12 Yes, ma'am.

13 BAILIFF BROWNING: Number 43. He approached me
14 as he was going on break, and he says he has an anxiety
15 disorder. And there are some questions that he needed to
16 speak up on, and he can't do it out with the crowd. And
17 he is just holding it in. And there are some matters
18 that he needs to say.

19 THE COURT: We'll -- at a later time we'll
20 question him individually and -- so that he can tell us
21 if he has got some situations that he needs to bring up.

22 BAILIFF: Number 43.

23 THE COURT: They can be coming back in. I am
24 going to take a brief break.

25 (THE JURORS RETURNED TO THE COURTROOM.)

26 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
27 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
28 PRESENT IN OPEN COURT. PROCEEDINGS WERE AS FOLLOWS:)

29 THE COURT: Court will come back to order.

1 There are a few individuals who will be able to go
2 at this time. So as yours names are called, I'll let you
3 go at this time. Number 4, Willie Forrest. And Number
4 12, Franklin McKinney. And Number 16, Dawn Marie
5 Palmertree. And Number, 25 Jacqueline Lane Sawyer. And
6 27, Frances K. Young Sanders. And Number 44, Brenda
7 Stovall. Forty-six, Julia Ann Bond. Forty-eight, Tonny
8 Seals. Fifty, Dyes Rash. Fifty-four, Dutchie Ann
9 Houston. Fifty-six, Dennis Lee Ratliff. Fifty-seven,
10 James Eugene Colbert. Fifty-eight, Luther Paul Robinson.
11 Fifty-nine, Debra Anderson. Sixty-one, Katherine Knight.
12 Seventy-three, Debra McKinney. Seventy-four, Latonya
13 Campbell. Seventy-six, Henry Campbell. Seventy-seven,
14 Lora Ann McCuiston. Eighty-one, Mario Anderson.
15 Eighty-two, Mario Turnage. One hundred three, Mary
16 Butts. One hundred six, Earl Glover. Number 129, Jimmie
17 Turner. Number 140, Ann Newman. Number 151, Stacy
18 Kennedy.

19 Ladies and gentlemen, the next question I want to
20 ask is how many of you have heard something about this
21 case. I do not want to know what you heard. I just
22 would want to know how you came to hear about it. So if
23 you will please stand if you have heard something about
24 the case.

25 Okay. Miss Laster, you heard about the case.

26 JUROR DEBORAH LASTER: Yes, sir. I was not
27 living here at the time the incident happened. I was
28 working as the managing editor of the Brookhaven
29 newspaper, and --

1 THE COURT: So --

2 JUROR DEBORAH LASTER: -- heard news reports.

3 THE COURT: Just heard from --

4 JUROR DEBORAH LASTER: News accounts.

5 THE COURT: And has that caused you to form an
6 opinion as to the guilt or innocence of Mr. Flowers?

7 JUROR DEBORAH LASTER: No, sir.

8 THE COURT: And can you lay aside anything you
9 might have heard outside the courtroom and base your
10 decision only on the evidence presented here in court?

11 JUROR DEBORAH LASTER: Yes, sir.

12 THE COURT: Okay. Thank you.

13 And Miss Wilson, how did you hear about the case?

14 JUROR MARTHA JANEY-WILSON: I lived in Holmes
15 County, Lexington. Just that there had been a shooting.

16 THE COURT: Just news reports.

17 JUROR MARTHA JANEY-WILSON: Just news reports.
18 That's all.

19 THE COURT: And has anything that you have
20 heard caused you to form an opinion of the guilt or
21 innocence of Mr. Flowers?

22 JUROR MARTHA JANEY-WILSON: No, sir.

23 THE COURT: And can you lay aside anything that
24 you might have heard and base your decision strictly on
25 the evidence here presented in court?

26 JUROR MARTHA JANEY-WILSON: Yes, sir.

27 THE COURT: And Miss Boles, and how did you
28 hear about the case?

29 JUROR RUTHIE BOLES: News. On the news. And

1 also in the community.

2 THE COURT: And can you -- has that, what you
3 heard, caused you to form an opinion as to guilt or
4 innocence of Mr. Flowers?

5 JUROR RUTHIE BOLES: Repeat.

6 THE COURT: Has the news or the talk out and
7 about town, has that caused you to form an opinion
8 concerning the guilt or innocence of Mr. Flowers?

9 JUROR RUTHIE BOLES: No.

10 THE COURT: And can you lay aside anything you
11 might have heard out in the community or through news
12 accounts and base your decision only on the evidence
13 presented here in court?

14 JUROR RUTHIE BOLES: Yes.

15 THE COURT: Okay. Thank you.

16 And Mr. Chambley, you heard about the case.

17 JUROR BENNY CHAMBLEY: Yes, sir.

18 THE COURT: And how was that?

19 JUROR BENNY CHAMBLEY: Newspaper. Read it.

20 THE COURT: And has what you heard caused you
21 to form an opinion as to the guilt or innocence of Mr.
22 Flowers?

23 JUROR BENNY CHAMBLEY: (Shook head.)

24 THE COURT: And can you lay aside anything you
25 might have heard outside the courtroom or in the news and
26 base your decision only on the evidence presented in
27 court?

28 JUROR BENNY CHAMBLEY: Yes, sir.

29 THE COURT: Thank you.

1 And Mr. Brown, have you heard about the case?

2 JUROR GEORGE BROWN: Yes, sir.

3 THE COURT: And how did you hear about it?

4 JUROR GEORGE BROWN: Newspaper and t.v.

5 THE COURT: And has that caused you to form an
6 opinion as to the guilt or innocence of Mr. Flowers?

7 JUROR GEORGE BROWN: No, sir.

8 THE COURT: And can you lay aside anything that
9 you might have heard and base your decision only on the
10 evidence presented here in open court?

11 JUROR GEORGE BROWN: Yes, sir.

12 THE COURT: Okay. Thank you.

13 And Number 8. Miss McClurg, how did you hear about
14 the case?

15 JUROR SHERYL MCCLURG: TV. Radio. Newspaper.

16 THE COURT: And has that caused you to form an
17 opinion as to the guilt or innocence of Mr. Flowers?

18 JUROR SHERYL MCCLURG: No.

19 THE COURT: And can you lay side whatever you
20 might have heard and base your decision strictly on the
21 evidence presented?

22 JUROR SHERYL MCCLURG: Do what now?

23 THE COURT: I am talking too fast. And I do
24 that a lot, and I get accused of that by a lot of friends
25 of mine at times.

26 Can you lay aside anything you might have heard
27 outside the courtroom and base your decision only on the
28 evidence presented here in open court?

29 JUROR SHERYL MCCLURG: Yes, sir.

1 THE COURT: And I know your husband is state
2 trooper. Did he share any knowledge, or has he heard
3 anything about the case?

4 JUROR SHERYL MCCLURG: No, sir.

5 THE COURT: Okay. Thank you.

6 And Miss Carter, I know you're justice court.

7 You can be seated, Miss McClurg.

8 Miss Carter, you are justice court clerk here. I
9 would assume probably through work you would have heard
10 some facts.

11 JUROR KAREN CARTER: I sat in on the last two.

12 THE COURT: Ma'am.

13 JUROR KAREN CARTER: I sat in on the last two.

14 THE COURT: Okay. And would anything that you
15 heard through work or otherwise, would that influence you
16 or be a factor in you being fair and impartial?

17 JUROR KAREN CARTER: Unless I hear something
18 different, I've already formed an opinion.

19 THE COURT: Okay. You have formed an opinion.
20 And could you lay that opinion aside, or have you already
21 got a fixed opinion?

22 JUROR KAREN CARTER: Only if there is something
23 different.

24 THE COURT: Okay. So right now you do have an
25 opinion, and you would not be able to lay that aside.

26 JUROR KAREN CARTER: Not with hearing it in
27 here.

28 THE COURT: Okay.

29 JUROR KAREN CARTER: If it was hearsay on the

1 street, yes. But not in here.

2 THE COURT: Okay. That is fine. You can be
3 seated.

4 And Number 13, Miss Holland. You have heard about
5 the case.

6 JUROR TINA HOLLAND: Yes, sir. From just
7 living and working in Winona and the news.

8 THE COURT: And has that caused you to form an
9 opinion as to the guilt or innocence of Mr. Flowers?

10 JUROR TINA HOLLAND: No, sir.

11 THE COURT: And can you lay aside any
12 information you heard outside the courtroom and base your
13 decision only on the evidence presented here in court?

14 JUROR TINA HOLLAND: Yes, sir.

15 THE COURT: Okay. Thank you.

16 And Mr. Bennett, how did you hear about it?

17 JUROR RONALD BENNETT: News media.

18 THE COURT: And has what you heard caused you
19 to form an opinion as to the guilt or innocence of Mr.
20 Flowers?

21 JUROR RONALD BENNETT: No, sir.

22 THE COURT: And can you lay side any
23 information that you have heard outside the courtroom and
24 base your decision strictly on the evidence presented
25 here in court?

26 JUROR RONALD BENNETT: Yes, sir.

27 THE COURT: And Miss Kenney, how did you hear
28 about the case?

29 JUROR EMMA KENNEY: News and newspaper.

1 THE COURT: And has anything you've heard
2 caused you to form an opinion as to the guilt or
3 innocence of Mr. Flowers?

4 JUROR EMMA KENNEY: No.

5 THE COURT: And can you lay side anything you
6 might have heard outside the courtroom and base your
7 decision only on the evidence presented here in court?

8 JUROR EMMA KENNEY: Yes.

9 THE COURT: Okay. Thank you.

10 And Number 21. Miss McNeer, and how did you hear
11 about it?

12 JUROR SHIRLEY MCNEER: Just from living in the
13 community, and just I remember the day it happened. Just
14 living here. And then, of course, the news media and all
15 the attention that it brought.

16 THE COURT: And has anything that you've heard
17 outside of court caused you to form an opinion as to the
18 guilt or innocence of Mr. Flowers?

19 JUROR SHIRLEY MCNEER: No.

20 THE COURT: And can you lay side any
21 information you gathered outside the courtroom and base
22 your decision only on the evidence presented here in
23 court?

24 JUROR SHIRLEY MCNEER: Yes.

25 THE COURT: Okay. Thank you.

26 And Mr. Gibson, how did you hear about it?

27 JUROR JONATHAN GIBSON: In the newspaper.

28 THE COURT: And has anything that you read or
29 heard caused you to form an opinion as to the guilt or

1 innocence of Mr. Flowers?

2 JUROR JONATHAN GIBSON: No, sir.

3 THE COURT: And can you lay aside anything you
4 might have heard and base your decision only on the
5 evidence presented here in court?

6 JUROR JONATHAN GIBSON: Yes, sir.

7 THE COURT: Okay. Thank you.

8 Number 26. Miss Branch, and how did you hear about
9 it?

10 JUROR LISA BRANCH: Just living in the
11 community and the media, news media.

12 THE COURT: And has anything you might have
13 heard caused you to form an opinion as to the guilt or
14 innocence of Mr. Flowers?

15 JUROR LISA BRANCH: No, sir. I've learned you
16 don't -- can't believe everything you hear so...

17 THE COURT: And will you lay aside anything you
18 heard outside the courtroom and base your decision only
19 on the evidence presented here in court?

20 JUROR LISA BRANCH: Yes, sir, I sure will.

21 THE COURT: Okay. Thank you.

22 And Mr. Johnson, how did you hear about it?

23 JUROR BRADFORD JOHNSON: News media.

24 THE COURT: And has anything you might have
25 heard through the media caused you to form an opinion as
26 to the guilt or innocence of Mr. Flowers?

27 JUROR BRADFORD JOHNSON: No, sir.

28 THE COURT: And can you lay aside anything that
29 you might have heard and base your decision only on the

1 evidence presented here in court?

2 JUROR BRADFORD JOHNSON: Yes, sir.

3 THE COURT: Okay. Thank you.

4 And Mr. Bailey, how did you hear about it?

5 JUROR WAYNE BAILEY: My employer has an office
6 here in the courthouse.

7 THE COURT: And you've talked to -- and who is
8 your employer?

9 JUROR WAYNE BAILEY: Forest.

10 THE COURT: Forest Commission. I'm sorry. And
11 has anything that you might have heard just from being
12 around the courthouse caused you to form an opinion as to
13 the guilt or innocence of Mr. Flowers?

14 JUROR WAYNE BAILEY: Yes, sir.

15 THE COURT: And could you lay that opinion
16 aside or -- and base your decision on the evidence? Or
17 is your opinion fixed to the extent you just do not feel
18 like you could lay it aside?

19 JUROR WAYNE BAILEY: No, sir. I don't think I
20 could change my opinion.

21 THE COURT: Okay. Thank you.

22 And Number 31. Mr. Knox.

23 JUROR ORMAN KNOX: Your Honor, I have a
24 question.

25 THE COURT: Yes, sir.

26 JUROR ORMAN KNOX: Does this pertain to the
27 whole duration, the 12 years?

28 THE COURT: Well, I mean from the -- if anybody
29 has heard anything about the case during any part of the

1 -- you know, from the date it happened up to now.

2 JUROR ORMAN KNOX: All right.

3 THE COURT: And as I say, I don't want to know
4 what you heard, but if you have heard something about it
5 I would be interested in knowing, you know, how you came
6 to hear about it and whether you have got an opinion.

7 JUROR ORMAN KNOX: I heard about it through
8 community and the news, but I wasn't living here. I
9 reside here, but I was in the military at the time.

10 THE COURT: You were, I believe you said,
11 Connecticut and different places.

12 JUROR ORMAN KNOX: Yes, sir.

13 THE COURT: And has anything that you saw
14 through the media or heard about the case caused you to
15 form an opinion as to the guilt or innocence of Mr.
16 Flowers?

17 JUROR ORMAN KNOX: No.

18 THE COURT: And can you lay aside anything you
19 might have read, any information you received outside of
20 the courtroom and base your decision only on the evidence
21 presented here in court?

22 JUROR ORMAN KNOX: Only on the evidence here.

23 THE COURT: Okay. Thank you.

24 And Miss Johnson, and you have heard about the case.

25 JUROR CINDY JOHNSON: From being a resident
26 here. Yes.

27 THE COURT: Was that through the media and
28 through just people talking?

29 JUROR CINDY JOHNSON: It was talking. But I

1 like to hear the facts instead of, you know, rumor.

2 THE COURT: And can you -- has anything you
3 heard caused you to form an opinion as to the guilt or
4 innocence of Mr. Flowers?

5 JUROR CINDY JOHNSON: No, sir.

6 THE COURT: And will you be able to lay
7 anything aside that you heard outside of court and base
8 your decision only on the evidence presented here in
9 court?

10 JUROR CINDY JOHNSON: Yes, sir.

11 THE COURT: Okay. Thank you.

12 And Miss Lancaster, you heard about the case.

13 JUROR ROSEMARY LANCASTER: Through the news.

14 THE COURT: And has anything that you heard in
15 the news caused you to form an opinion as to the guilt or
16 innocence of Mr. Flowers?

17 JUROR ROSEMARY LANCASTER: No, sir.

18 THE COURT: And can you lay aside any
19 information received outside the courtroom and base your
20 decision only on the evidence here in court?

21 JUROR ROSEMARY LANCASTER: Yes, sir.

22 THE COURT: Okay. Thank you.

23 And Mr. Newman, you've heard about it. And how did
24 you hear about it?

25 JUROR MOSES NEWMAN: Television. Newspapers.
26 And through the community.

27 THE COURT: And has that caused you to form an
28 opinion as to the guilt or innocence of Mr. Flowers?

29 JUROR MOSES NEWMAN: No, sir.

1 THE COURT: And can you lay aside any
2 information gathered outside the courtroom and base your
3 decision only on the evidence here in court?

4 JUROR MOSES NEWMAN: Yes, sir.

5 THE COURT: Thank you.

6 And --

7 JUROR MOSES NEWMAN: Sir.

8 THE COURT: Yes, sir.

9 JUROR MOSES NEWMAN: Earlier you asked if we
10 had any relatives that have been convicted.

11 THE COURT: Yes, sir.

12 JUROR MOSES NEWMAN: I had one other cousin,
13 C.W. Forrest.

14 THE COURT: And was that a murder charge?

15 JUROR MOSES NEWMAN: No, sir. It was...

16 MR. EVANS: Aggravated assault.

17 THE COURT: Aggravated assault.

18 JUROR MOSES NEWMAN: Yes.

19 THE COURT: And how are you related to him?

20 JUROR MOSES NEWMAN: He is my first cousin.

21 THE COURT: First cousin. And would that
22 influence you or be a factor in you being a fair and
23 impartial juror?

24 JUROR MOSES NEWMAN: No, sir.

25 THE COURT: Okay. Thank you.

26 And Mr. Bibbs, you heard about the case.

27 JUROR JAMES BIBBS: Through news media.

28 THE COURT: And I know you have got a son that
29 is a law officer. Has he ever talked about the case with

1 you?

2 JUROR JAMES BIBBS: Not really.

3 THE COURT: And has anything that you heard
4 about the case caused you to form an opinion as to the
5 guilt or innocence of Mr. Flowers?

6 JUROR JAMES BIBBS: No.

7 THE COURT: And can you put aside anything you
8 heard outside of court and base your decision strictly on
9 the evidence presented here in court?

10 JUROR JAMES BIBBS: Yes, sir.

11 THE COURT: Okay. Thank you.

12 And Miss Corley, you have heard about the case.

13 JUROR MELODIE CORLEY: Yes, sir.

14 THE COURT: And how is that?

15 JUROR MELODIE CORLEY: Through the news media.
16 And also, I have friends and family that has been to
17 several of the trials.

18 THE COURT: And can anything -- did anything
19 that you have heard caused you to form an opinion as to
20 the guilt or innocence of Mr. Flowers?

21 JUROR MELODIE CORLEY: Yes, sir.

22 THE COURT: And could you lay that aside and
23 base your decision on the evidence presented here in
24 court?

25 JUROR MELODIE CORLEY: Probably not.

26 THE COURT: So your opinion is fixed.

27 JUROR MELODIE CORLEY: Yes, sir.

28 THE COURT: Okay. Thank you.

29 And Mr. Bollinger, how, how did you hear about the

1 case?

2 JUROR DANIEL BOLLINGER: News. And people in
3 general, been around. Talking.

4 THE COURT: Yes, sir. Just talk around the
5 community and through the media.

6 JUROR DANIEL BOLLINGER: Right.

7 THE COURT: And has that caused you to form an
8 opinion as to the guilt or innocence of Mr. Flowers?

9 JUROR DANIEL BOLLINGER: No, sir.

10 THE COURT: And can you lay aside anything that
11 you've heard outside of court and base your decision only
12 on the evidence presented here in court?

13 JUROR DANIEL BOLLINGER: Yes, sir.

14 THE COURT: Okay. Thank you.

15 And Miss Cooley, how did you hear about the case?

16 JUROR ANGELA COOLEY: Media. Family. And
17 friends.

18 THE COURT: And has that caused you to form an
19 opinion as to the guilt or innocence of Mr. Flowers?

20 JUROR ANGELA COOLEY: No, sir.

21 THE COURT: And can you lay aside anything that
22 you might have heard outside of court and base your
23 decision only on the evidence presented here in court?

24 JUROR ANGELA COOLEY: Yes, sir.

25 THE COURT: Okay. Thank you.

26 And Miss Henson, how did you hear about it?

27 JUROR JOYCE HENSON: Through the news media.
28 Through talk within the community from family and
29 friends. And my husband was the county supervisor when

1 it happened and had access to information that was not
2 public knowledge.

3 THE COURT: And has those factors caused you to
4 form an opinion as to the guilt or innocence of Mr.
5 Flowers?

6 JUROR JOYCE HENSON: No, sir.

7 THE COURT: And can you lay aside any
8 information that you've heard outside of court and base
9 your decision only on the evidence presented here in
10 court?

11 JUROR JOYCE HENSON: Yes, sir.

12 THE COURT: Okay. Thank you.

13 And Number 45. Miss Braswell, and how did you hear
14 about it?

15 JUROR BURNADETTE BRASWELL: I worked down the
16 street from Tardy's when it happened and through the news
17 media and friends.

18 THE COURT: And has that caused you to form an
19 opinion as to the guilt or innocence of Mr. Flowers?

20 JUROR BURNADETTE BRASWELL: No, sir.

21 THE COURT: And can you lay aside any
22 information gathered outside of court and base your
23 decision only on the evidence presented here in court?

24 JUROR BURNADETTE BRASWELL: Yes, sir.

25 THE COURT: Okay. Thank you.

26 And Number 52. Miss Rodgers, and how did you hear
27 about it?

28 JUROR MELBA RODGERS: Just the news.

29 THE COURT: And has anything that you have seen

1 through the media caused you to form an opinion as to the
2 guilt or innocence of Mr. Flowers?

3 JUROR MELBA RODGERS: No, sir.

4 THE COURT: And can you lay aside anything that
5 you might have seen or heard and base your decision only
6 on the evidence presented here in court?

7 JUROR MELBA RODGERS: Yes, sir.

8 THE COURT: Okay. Thank you.

9 And Number 60. Miss Blakely, how did you hear about
10 it?

11 JUROR SHIRLEY BLAKELY: News media and friends.

12 THE COURT: And has anything that you might
13 have heard caused you to form an opinion as to the guilt
14 or innocence of Mr. Flowers?

15 JUROR SHIRLEY BLAKELY: No, sir.

16 THE COURT: And can you lay aside anything that
17 you might have heard and base your decision strictly on
18 the evidence presented here in court?

19 JUROR SHIRLEY BLAKELY: Yes, sir.

20 THE COURT: Okay. Thank you.

21 And Mr. Groves, how did you hear about it?

22 JUROR DANNY GROVES: News media and my job.

23 THE COURT: And, and through your job.

24 JUROR DANNY GROVES: (Nodded.)

25 THE COURT: Now, I know you work in Kosciusko
26 as a police officer. Have you ever worked in Montgomery
27 County as law enforcement?

28 JUROR DANNY GROVES: Worked at sheriff's
29 department for a while. And worked for Winona P.D. for

1 about a year and a half.

2 THE COURT: And has that caused you to form an
3 opinion as to the guilt or innocence of Mr. Flowers?

4 JUROR DANNY GROVES: No, sir.

5 THE COURT: And can you lay aside anything you
6 might have heard outside of court and base your decision
7 strictly on the evidence presented here in court?

8 JUROR DANNY GROVES: Yes, sir.

9 THE COURT: Okay. Thank you.

10 And Number 65. Mr. Amason, how did you hear about
11 it?

12 JUROR WALTER AMASON: Friends. Family. News.

13 THE COURT: And has that caused you to form an
14 opinion as to the guilt or innocence of Mr. Flowers?

15 JUROR WALTER AMASON: Yes.

16 THE COURT: And is that opinion fixed to the
17 extent --

18 JUROR WALTER AMASON: It is fixed.

19 THE COURT: -- that you could not set it aside?

20 JUROR WALTER AMASON: Yes, sir.

21 THE COURT: Okay. Thank you.

22 Number 66. Miss McBride, how did you hear about it?

23 JUROR CYNTHIA MCBRIDE: At the time that it
24 took place, I was working in Greenwood. I had not been
25 living in the community of Winona for very long, a few
26 years. And I worked in Greenwood. And my husband -- I
27 remember my husband calling me to tell me that something
28 had taken place.

29 THE COURT: Okay. So you heard it through your

1 husband.

2 JUROR CYNTHIA MCBRIDE: We didn't know any of
3 the people involved, but I just remember feeling really
4 bad about the tragedy.

5 THE COURT: And has that caused you, anything
6 you've heard, to have an opinion as to the guilt or
7 innocence of Mr. Flowers?

8 JUROR CYNTHIA MCBRIDE: No, sir.

9 THE COURT: And can you lay aside anything that
10 you've heard and base your decision only on the evidence
11 presented here in court?

12 JUROR CYNTHIA MCBRIDE: Yes, sir.

13 THE COURT: Okay. Thank you.

14 And Miss Purnell, Number 70, how did you hear about
15 the case?

16 JUROR MARY PURNELL: News media.

17 THE COURT: And did that cause you to form an
18 opinion as to the guilt or innocence of Mr. Flowers?

19 JUROR MARY PURNELL: No, sir.

20 THE COURT: And can you lay aside anything you
21 might have heard through media and base your decision
22 only on the evidence presented here in court?

23 JUROR MARY PURNELL: Yes, sir, I can.

24 THE COURT: Okay. Thank you.

25 And then Miss Haynes, Number 71, how did you hear?

26 JUROR PATRICIA HAYNES: Just the news media.

27 THE COURT: And has anything you heard through
28 the media caused you to form an opinion as to the guilt
29 or innocence of Mr. Flowers?

1 JUROR PATRICIA HAYNES: No, sir.

2 THE COURT: And can you lay aside anything that
3 you might have heard in the media and base your decision
4 only on the evidence presented here in court?

5 JUROR PATRICIA HAYNES: Yes, sir.

6 THE COURT: Okay. Thank you.

7 And Miss Stevens, how did you hear about it?

8 JUROR SHARON STEVENS: Just through friends and
9 the media.

10 THE COURT: And has anything that you heard
11 from friends or seen through the media caused you to form
12 an opinion as to the guilt or innocence of Mr. Flowers?

13 JUROR SHARON STEVENS: No.

14 THE COURT: And can you lay aside anything that
15 you might have seen or heard outside of court and base
16 your decision only on the evidence presented here in
17 court?

18 JUROR SHARON STEVENS: Yes.

19 THE COURT: Okay. Thank you.

20 And Number 75. Miss Everett, how did you hear about
21 the case?

22 JUROR ROSEMARY EVERETTE: Newspaper.

23 THE COURT: And did anything that you've read
24 or that you've heard cause you to form an opinion as to
25 the guilt or innocence of Mr. Flowers?

26 JUROR ROSEMARY EVERETTE: No, sir.

27 THE COURT: And can you lay aside any
28 information gathered outside of court and base your
29 decision only on the evidence presented here in court?

1 JUROR ROSEMARY EVERETTE: Yes.

2 THE COURT: Okay. Thank you.

3 Number 79. Mr. Austin, and how did you hear about
4 it?

5 JUROR JOHN AUSTIN: Just community. Newspaper.
6 Growing up here.

7 THE COURT: And has anything that you've heard
8 or seen caused you to form an opinion --

9 JUROR JOHN AUSTIN: No, sir.

10 THE COURT: -- about the case as to guilt or
11 innocence?

12 JUROR JOHN AUSTIN: No, sir.

13 THE COURT: And can you lay aside any
14 information gathered outside of the courtroom and base
15 your decision only on the evidence presented here in
16 court?

17 JUROR JOHN AUSTIN: Yes, sir.

18 THE COURT: Okay. Thank you.

19 Then Number 80. Miss Butts, how did you hear about
20 it?

21 JUROR JUROR JOYCE BUTTS: Through the news
22 media and the community.

23 THE COURT: And has that caused you to form an
24 opinion as to the guilt or innocence of Mr. Flowers?

25 JUROR JUROR JOYCE BUTTS: No, sir.

26 THE COURT: And can you lay aside any
27 information gathered outside the courtroom and base your
28 decision only on the evidence presented here in court?

29 JUROR JUROR JOYCE BUTTS: Yes, sir.

1 THE COURT: Okay. Thank you.

2 And Number 85. Mr. Carwile, how did you hear about
3 it?

4 JUROR MARK CARWILE: Through the news.

5 THE COURT: And has that caused you to form an
6 opinion as to the guilt or innocence of Mr. Flowers?

7 JUROR MARK CARWILE: (Shook head.)

8 THE COURT: And can you lay aside any
9 information that you gathered outside of court and base
10 your decision only on the evidence presented here in
11 court?

12 JUROR MARK CARWILE: Yes, sir.

13 THE COURT: Thank you.

14 And Mr. Land, how did you hear about it?

15 JUROR COLBY LAND: Family and the news media.
16 Living in the community.

17 THE COURT: And has that caused you to form an
18 opinion as to the guilt or innocence of Mr. Flowers?

19 JUROR COLBY LAND: Yes, sir, it has.

20 THE COURT: And is that so fixed that you could
21 not set it aside?

22 JUROR COLBY LAND: Not sure. Probably not.

23 THE COURT: So you just feel like you could not
24 set aside information and base it on the --

25 JUROR COLBY LAND: Yes, sir. That's right.

26 THE COURT: Okay. So there would be outside
27 factors that you would have already considered.

28 JUROR COLBY LAND: Yes, sir.

29 THE COURT: Okay. Thank you, Mr. Land.

1 Number 91. Miss Vance, and how did you hear about
2 it?

3 JUROR NANCY VANCE: I was in high school when
4 it happened. I just remember two people talking about
5 it.

6 THE COURT: And were you in school with Mr.
7 Stewart, one of the --

8 JUROR NANCY VANCE: Yes, sir.

9 THE COURT: What -- were y'all --

10 JUROR NANCY VANCE: He was a couple of years
11 older than me.

12 THE COURT: Okay. Has anything that you heard
13 caused you to form an opinion as to the guilt or
14 innocence of Mr. Flowers?

15 JUROR NANCY VANCE: No, sir.

16 THE COURT: Can you lay any information aside
17 side that you might have heard outside of court and base
18 your decision only on information presented here in open
19 court?

20 JUROR NANCY VANCE: Yes, sir.

21 THE COURT: Okay. Thank you.

22 And Miss Lane, how did you hear about it.

23 JUROR KATHERINE LANE: News and rumors in the
24 community.

25 THE COURT: Rumors in the community.

26 JUROR KATHERINE LANE: Yes.

27 THE COURT: Has anything that you might have
28 heard outside of court caused you to form an opinion as
29 to the guilt or innocence of Mr. Flowers?

1 JUROR KATHERINE LANE: No.

2 THE COURT: Can you lay aside any information
3 gathered outside of court and base your decision only on
4 information presented here in court?

5 JUROR KATHERINE LANE: Yes.

6 THE COURT: Thank you.

7 And Mr. Matthews, how did you hear about it?

8 JUROR HARLEY MATTHEWS: Just people in town.
9 The news. Newspaper.

10 THE COURT: And has anything that you have
11 heard through the media or seen in the news or talked to
12 people caused you to form an opinion --

13 JUROR HARLEY MATTHEWS: No, sir.

14 THE COURT: -- as to guilt or innocence?

15 JUROR HARLEY MATTHEWS: No, sir.

16 THE COURT: And can you lay aside any
17 information you gathered outside of court and base your
18 decision only on the evidence presented here in court?

19 JUROR HARLEY MATTHEWS: Yes, sir.

20 THE COURT: Thank you.

21 And Miss Wilson, how did you hear about it?

22 JUROR KRISTIN WILSON: I'm not from Winona. I
23 have been a high school teacher here for four years. And
24 when I was summonsed for jury duty, people started
25 mentioning things to me.

26 THE COURT: And has anything that anybody told
27 you caused you to form an opinion as to the guilt or
28 innocence of Mr. Flowers?

29 JUROR KRISTIN WILSON: No, sir.

1 THE COURT: And can you lay any information
2 that anybody might have told you or things you heard
3 outside of court and base your decision only on the
4 evidence presented here in court?

5 JUROR KRISTIN WILSON: Yes, sir.

6 THE COURT: Okay. Thank you.

7 JUROR KRISTIN WILSON: Can I take this
8 opportunity to say that I am a teacher here? I don't
9 know if I have taught any children that are related in
10 any way to any of these people.

11 THE COURT: But it's -- you could possible have
12 taught some --

13 JUROR KRISTIN WILSON: I could possibly have
14 taught some.

15 THE COURT: -- people related to Mr. Flowers,
16 but you don't know that.

17 JUROR KRISTIN WILSON: Right.

18 THE COURT: Or -- and I assume maybe some of
19 the victim's families you might have taught, but you have
20 no knowledge of that.

21 JUROR KRISTIN WILSON: Right. I've only lived
22 here for three years.

23 THE COURT: Okay. And I've lived in my home
24 county all my life, and I'm still living -- learning
25 people who are related that I didn't know were. So I
26 understand where you are coming from, and I appreciate
27 you bringing that to our attention.

28 Miss Hodges, how did you hear about it?

29 JUROR SALLIE HODGES: The news and some of the

1 families.

2 THE COURT: And has anything you have heard
3 through the news or anything at all caused you to form an
4 opinion as --

5 JUROR SALLIE HODGES: Yes, sir.

6 THE COURT: And could that be laid aside or is
7 that a fixed opinion that you feel like could not be set
8 aside too?

9 JUROR SALLIE HODGES: I'm not sure.

10 THE COURT: So you have got doubts about
11 whether you could even set any information aside.

12 JUROR SALLIE HODGES: Yes, sir.

13 THE COURT: Okay. Thank you.

14 Number 97. Mr. Huggins, how did you hear about it?

15 JUROR BURRELL HUGGINS: Through the news.

16 THE COURT: And anything that you've heard
17 caused you to form an opinion as to the guilt or
18 innocence of Mr. Flowers?

19 JUROR BURRELL HUGGINS: No, sir.

20 THE COURT: And can you lay any opinion -- I
21 mean can you lay any information that you gathered
22 outside of court aside and base your decision only on the
23 evidence presented here in court?

24 JUROR BURRELL HUGGINS: I can.

25 THE COURT: Okay. Thank you.

26 And then Miss Harris, how did you hear about it?

27 JUROR CARON HARRIS: Newspaper and media.

28 THE COURT: And has anything that you've seen
29 or heard caused you to form an opinion as to guilt or

1 innocence of Mr. Flowers?

2 JUROR CARON HARRIS: No.

3 THE COURT: And can you lay any information you
4 gathered outside of the courtroom aside and base your
5 decision only on the evidence that is presented here in
6 court?

7 JUROR CARON HARRIS: Yes.

8 THE COURT: Okay. Thank you.

9 And Number 26.

10 JUROR LISA BRANCH: Yes, sir.

11 THE COURT: And...

12 JUROR LISA BRANCH: I've been teaching here for
13 28 years, special education teacher. And I may have had
14 some relatives in the past. I just don't know for sure.
15 I'm just like Miss Wilson on that.

16 THE COURT: So you are like her; if you taught
17 relatives of anybody involved --

18 JUROR LISA BRANCH: My memory is kind of --
19 older I get, I can't remember things either.

20 THE COURT: I know the --

21 JUROR LISA BRANCH: But 28 years is a long
22 time.

23 THE COURT: I appreciate you speaking up on
24 that.

25 Number 99. Miss Corder, how did you hear about it?

26 JUROR DIANNE CORDER: I heard about it through
27 the media. I also have always had an interest in going
28 to court, both in Webster County and here. And I
29 attended the last two trials.

1 THE COURT: Okay. So you have been here before
2 and heard some proof before.

3 JUROR DIANNE CORDER: I heard bits and pieces.
4 I --

5 THE COURT: And has any -- I was going to say
6 has anything that you heard outside of court caused you
7 to form an opinion on the case?

8 JUROR DIANNE CORDER: Not as of right now.

9 THE COURT: So you could -- can you lay aside
10 anything that you might have heard previously and base
11 your decision only on the proof and evidence presented
12 here in court?

13 JUROR DIANNE CORDER: I can.

14 THE COURT: Okay. Thank you.

15 Number 102. Miss Boyle, and how did you hear about
16 it?

17 JUROR MARTHA BOYLE: Newspaper and general
18 talking.

19 THE COURT: And has anything that you have
20 heard outside of court caused you to form an opinion as
21 to guilt or innocence of Mr. Flowers?

22 JUROR MARTHA BOYLE: No.

23 THE COURT: And can you lay aside anything that
24 you might have heard about the case and base your
25 decision only on the evidence presented here in court?

26 JUROR MARTHA BOYLE: I can.

27 THE COURT: Okay. Thank you.

28 And Number 104. Miss Vanderlip, and how did you
29 hear about it?

1 JUROR MARLENE VANDERLIP: Media.

2 THE COURT: And has anything that you heard
3 through the media caused you to form an opinion
4 concerning the innocence or guilt of Mr. Flowers?

5 JUROR MARLENE VANDERLIP: No, sir.

6 THE COURT: And can you lay aside any
7 information that you gathered outside of the courtroom
8 and base your decision only on the evidence presented
9 here in court?

10 JUROR MARLENE VANDERLIP: Yes, sir.

11 THE COURT: Okay. Thank you.

12 And Mr. Hudson, how did you hear about it?

13 JUROR JAMIE HUDSON: From the newspaper, media,
14 word of mouth and all. I worked with a boy that was a
15 witness in the case.

16 THE COURT: And who is that?

17 JUROR JAMIE HUDSON: Ken Pickens.

18 THE COURT: And has anything that you have
19 heard through these sources caused you to form an opinion
20 about the guilt or innocence of Mr. Flowers?

21 JUROR JAMIE HUDSON: No, sir. No, sir.

22 THE COURT: And can you lay aside anything that
23 you might have heard outside of court and base your
24 decision only on the evidence presented here during the
25 trial?

26 JUROR JAMIE HUDSON: Yes, sir.

27 THE COURT: Okay. Thank you.

28 Miss Black, how did you hear about it?

29 JUROR STACY BLACK: News, family and community.

1 THE COURT: News and family and friends.

2 JUROR STACY BLACK: Community.

3 THE COURT: And has anything you might have
4 heard about the case caused you to form an opinion as to
5 the guilt or innocence of Mr. Flowers?

6 JUROR STACY BLACK: Well, it happened, like,
7 the summer before my eighth grade year.

8 THE COURT: So --

9 JUROR STACY BLACK: I was so young. It wasn't
10 really impressed on me.

11 THE COURT: You were pretty young at the time
12 then. I would take it that has not caused you to form an
13 opinion as to guilt or innocence.

14 JUROR STACY BLACK: No.

15 THE COURT: And can you lay aside anything
16 you've heard outside of court and base your decision only
17 on the evidence presented here in court?

18 JUROR STACY BLACK: Yes.

19 THE COURT: Thank you.

20 And Mr. Ward, how did you hear?

21 JUROR DENNIS WARD: Just media.

22 THE COURT: And has anything that you've heard
23 through the media caused you to form an opinion as to the
24 guilt or innocence of Mr. Flowers?

25 JUROR DENNIS WARD: No, sir.

26 THE COURT: And can you lay aside anything that
27 you might have heard and base your decision only on the
28 evidence presented here in court?

29 JUROR DENNIS WARD: Yes, sir.

1 THE COURT: Thank you.

2 And Miss Lancaster, how did you hear about it?

3 JUROR ANGELA LANCASTER: The news media and the
4 internet.

5 THE COURT: And has anything that you've heard
6 about the case caused you to form any opinion concerning
7 the innocence or guilt of Mr. Flowers?

8 JUROR ANGELA LANCASTER: Yes, sir.

9 THE COURT: And would you be able to lay that
10 aside or is your opinion fixed to the extent you just
11 feel like you couldn't lay aside that?

12 JUROR ANGELA LANCASTER: I don't think I could.

13 THE COURT: Okay. Thank you.

14 And Number 110. Miss Legg, how did you hear about
15 it?

16 JUROR CONNIE LEGG: Through the newspaper,
17 family, friends.

18 THE COURT: And has anything that you might
19 have seen or read or heard caused you to form an opinion
20 concerning the guilt or innocence of Mr. Flowers?

21 JUROR CONNIE LEGG: No, sir.

22 THE COURT: And can you lay aside any
23 information gathered outside of court and base your
24 decision strictly on the evidence presented here in
25 court?

26 JUROR CONNIE LEGG: Yes, I can.

27 THE COURT: Thank you.

28 Number 112. Miss Clay, and how did you hear about
29 it?

1 JUROR SHEILA CLAY: Through the media.

2 THE COURT: And has anything that you heard
3 caused you to form an opinion as to the guilt or
4 innocence of Mr. Flowers?

5 JUROR SHEILA CLAY: No, it hasn't.

6 THE COURT: And can you lay aside any
7 information gathered outside of the courtroom and base
8 your decision only on the evidence presented here in
9 court?

10 JUROR SHEILA CLAY: Yes, I can.

11 THE COURT: Okay. Thank you.

12 And are you 113?

13 JUROR LORETTA BURL: Yes, I am.

14 THE COURT: Okay. Miss Burt, how did you hear
15 about the case?

16 JUROR LORETTA BURL: Is that spelled B-u-r-t or
17 B-u-r-l?

18 THE COURT: It is spelled B-u-r-t. Is that
19 wrong?

20 JUROR LORETTA BURL: Yes.

21 THE COURT: Okay. Well, I'm sorry. And how is
22 your --

23 JUROR LORETTA BURL: It's B-u-r-l.

24 THE COURT: B-u-r-l.

25 JUROR LORETTA BURL: Um-hum.

26 THE COURT: Okay. Well, I appreciate that.
27 And how did you hear about the case?

28 JUROR LORETTA BURL: Family and media.

29 THE COURT: And has that caused you to form any

1 opinion concerning the guilt or innocence of Mr. Flowers?

2 JUROR LORETTA BURL: No.

3 THE COURT: And can you lay aside any
4 information that you heard outside of court and base your
5 decision only on the evidence presented here in court?

6 JUROR LORETTA BURL: Yes, I can.

7 THE COURT: Okay. Thank you.

8 And Number 114. Mr. Windham, how did you hear about
9 it?

10 JUROR GARY WINDHAM: News.

11 THE COURT: And has anything that you heard
12 through the media caused you to form an opinion
13 concerning the innocence or guilt of Mr. Flowers?

14 JUROR GARY WINDHAM: No.

15 THE COURT: It has not.

16 JUROR GARY WINDHAM: No, sir.

17 THE COURT: And can you lay side any
18 information that you gathered outside of court and base
19 your decision only on the evidence presented here in
20 court?

21 JUROR GARY WINDHAM: Yes, sir.

22 THE COURT: Okay. Thank you.

23 And Mr. Bennett, how did you hear about it?

24 JUROR JOHN BENNETT: News media.

25 THE COURT: And has anything that you have
26 heard in the media caused you to form an opinion
27 concerning the innocence or guilt of Mr. Flowers?

28 JUROR JOHN BENNETT: No, sir.

29 THE COURT: And can you lay aside any

1 information gathered outside of court and base your
2 decision only on the evidence presented here in court?

3 JUROR JOHN BENNETT: Yes, sir.

4 THE COURT: Okay. Thank you.

5 And Mr. Woods, how did you hear about it?

6 JUROR NICHOLAS WOODS: Newspaper.

7 THE COURT: And has anything that you read or
8 heard caused you to form an opinion concerning the
9 innocence or guilt of Mr. Flowers?

10 JUROR NICHOLAS WOODS: No, sir.

11 THE COURT: And can you lay aside any
12 information that you heard outside of court and base your
13 decision only on the evidence presented here in court?

14 JUROR NICHOLAS WOODS: Yes, sir.

15 THE COURT: Okay. Thank you.

16 Then 119. Mr. Roberts, and how did you hear about
17 it?

18 JUROR BOBBY ROBERTS: I was working at Winona
19 Elevator when it happened, and customers came in telling
20 me about it.

21 THE COURT: And has anything that you've heard
22 caused you to form an opinion concerning the guilt or
23 innocence of Mr. Flowers?

24 JUROR BOBBY ROBERTS: No, sir.

25 THE COURT: And can you lay aside anything that
26 you heard outside of court and base your decision only on
27 the evidence presented here in court?

28 JUROR BOBBY ROBERTS: Yes, sir.

29 THE COURT: Thank you.

1 Then Miss Roberson, you've heard about it.

2 JUROR ETHELENE ROBERSON: Through the news
3 media and friends.

4 THE COURT: And has anything that you have
5 heard or seen caused you to form an opinion concerning
6 the guilt or innocence of Mr. Flowers?

7 JUROR ETHELENE ROBERSON: Yes, sir.

8 THE COURT: And is that a fixed opinion that
9 cannot be set aside?

10 JUROR ETHELENE ROBERSON: No, sir.

11 THE COURT: It is a fixed --

12 JUROR ETHELENE ROBERSON: (Nodded.)

13 THE COURT: And you could not lay that aside.

14 JUROR ETHELENE ROBERSON: No, sir.

15 THE COURT: Okay. Thank you.

16 121. Mr. Welch, and how did you hear about it?

17 JUROR BRUCE WELCH: Through the newspaper and
18 my wife. My wife was a juror last time.

19 THE COURT: And has she discussed the case with
20 you?

21 JUROR BRUCE WELCH: Yes, sir.

22 THE COURT: And has things you have heard, news
23 or different sources, caused you to form an opinion about
24 the guilt or innocence in this case?

25 JUROR BRUCE WELCH: I know what they thought.

26 THE COURT: It doesn't matter what they
27 thought. You know, I'm not concerned about what anybody
28 thinks. I am concerned about what you personally think.

29 JUROR BRUCE WELCH: Yes, sir.

1 THE COURT: So, so could you lay aside any
2 information that you have heard, or do you have an
3 opinion already?

4 JUROR BRUCE WELCH: No, sir. I don't have an
5 opinion.

6 THE COURT: And can you lay aside anything you
7 might have heard about the case and base your decision
8 only on the evidence presented here in court?

9 JUROR BRUCE WELCH: Yes, sir.

10 THE COURT: Okay. Thank you.

11 Mr. Hemphill, how did you hear about it?

12 JUROR BENJAMIN HEMPHILL: News media.

13 THE COURT: And has anything that you've heard
14 caused you to form an opinion as to the innocence or
15 guilt of Mr. Flowers?

16 JUROR BENJAMIN HEMPHILL: No, sir.

17 THE COURT: And can you lay aside anything that
18 you've heard outside of court and base your decision
19 strictly on the evidence presented here in court?

20 JUROR BENJAMIN HEMPHILL: Yes, sir.

21 THE COURT: Okay. Thank you.

22 And Number 123. Miss Box, how did you hear about
23 it?

24 JUROR PATRICIA BOX: From the news and from
25 living in the community.

26 THE COURT: And has anything that you have
27 heard in the community or seen through the media caused
28 you to form any opinion concerning the innocence or guilt
29 of Mr. Flowers?

1 JUROR PATRICIA BOX: No.

2 THE COURT: And can you lay aside any
3 information you've heard outside of court and base your
4 decision only on the evidence presented here in court?

5 JUROR PATRICIA BOX: Yes.

6 THE COURT: Okay. Thank you.

7 Then 125. Miss Jones, and how did you hear about
8 it?

9 JUROR JUDY JONES: The news media and the
10 community.

11 THE COURT: And has anything that you have
12 heard in the community or seen through the media caused
13 you to form any opinion concerning the innocence or guilt
14 of Mr. Flowers?

15 JUROR JUDY JONES: No, sir.

16 THE COURT: And can you lay aside anything that
17 you might have heard and base your decision only on the
18 evidence presented here in court?

19 JUROR JUDY JONES: Yes, sir.

20 THE COURT: Thank you.

21 Then Miss Caffey, and how did you hear about it?

22 JUROR LOUISE CAFFEY: I, I was living in the
23 community at the time and through news media.

24 THE COURT: And has that caused you to form any
25 opinions concerning the innocence or guilt of Mr.
26 Flowers?

27 JUROR LOUISE CAFFEY: No, sir.

28 THE COURT: And can you lay aside any
29 information gathered outside of court and base your

1 decision only on the evidence presented here in court?

2 JUROR LOUISE CAFFEY: Yes, sir.

3 THE COURT: Okay. Thank you.

4 Then 130. Mr. Townsend, how did you hear about it?

5 JUROR STANLEY TOWNSEND: I heard about it
6 through the community and the news.

7 THE COURT: Community and news.

8 JUROR STANLEY TOWNSEND: Yeah.

9 THE COURT: And has that caused you to form any
10 opinion concerning the innocence or guilt of Mr. Flowers?

11 JUROR STANLEY TOWNSEND: No.

12 THE COURT: And can you lay aside any opinion

13 --

14 JUROR STANLEY TOWNSEND: I mean yes. Yes, sir.
15 I mean yes on that.

16 THE COURT: Okay. It has caused you to form an
17 opinion.

18 JUROR STANLEY TOWNSEND: Yeah. It has.

19 THE COURT: And could you lay that opinion
20 aside, or is the opinion fixed to the extent you do not
21 feel like you could?

22 JUROR STANLEY TOWNSEND: No.

23 THE COURT: It is a fixed opinion.

24 JUROR STANLEY TOWNSEND: A fixed opinion.

25 THE COURT: And you could not lay that opinion
26 aside.

27 JUROR STANLEY TOWNSEND: (Shook head.)

28 THE COURT: Okay. Thank you.

29 Then 131. Mr. Hathcock, how did you hear about it?

1 JUROR MICHAEL HATHCOCK: News media and word of
2 mouth.

3 THE COURT: And has anything that you've heard
4 through the media or heard from different individuals
5 caused you to form any opinion about the case?

6 JUROR MICHAEL HATHCOCK: No, sir.

7 THE COURT: And can you lay aside any
8 information gathered outside of court and base your
9 decision only on the evidence presented here in court?

10 JUROR MICHAEL HATHCOCK: Yes, sir.

11 THE COURT: Thank you.

12 Then Miss Thompson, how did you hear about it?

13 JUROR EULANDIA THOMPSON: From the media and
14 the community.

15 THE COURT: And has that caused you to form an
16 opinion concerning the innocence or guilt of Mr. Flowers?

17 JUROR EULANDIA THOMPSON: No, sir, it hasn't.

18 THE COURT: And can you lay aside any
19 information you gathered outside of court and base your
20 decision only on the evidence presented here in court?

21 JUROR EULANDIA THOMPSON: Yes, sir.

22 THE COURT: Okay. Thank you.

23 And Miss Vance, how did you hear about it?

24 JUROR ASHLEY VANCE: I just finished my
25 freshman year with Bobo.

26 THE COURT: Were y'all classmates?

27 JUROR ASHLEY VANCE: He was in my class.

28 THE COURT: And I am sure you heard about it.

29 JUROR ASHLEY VANCE: Just for that -- just for

1 that year. I was only in his class since that year.

2 THE COURT: And did you hear about the case
3 from any other sources?

4 JUROR ASHLEY VANCE: No, sir.

5 THE COURT: And --

6 JUROR ASHLEY VANCE: Other than news. That's
7 it.

8 THE COURT: Right. The news.

9 JUROR ASHLEY VANCE: Um-hum.

10 THE COURT: And has anything that you heard
11 about the case caused you to form any opinion concerning
12 the innocence or guilt of Mr. Flowers?

13 JUROR ASHLEY VANCE: No, sir.

14 THE COURT: And would you lay aside any
15 information that you gathered outside of the courtroom
16 and base your decision only on the evidence that is
17 presented here in court?

18 JUROR ASHLEY VANCE: Yes, sir.

19 THE COURT: Thank you.

20 Excuse me.

21 Number 137. Miss Malone, how did you hear about it?

22 JUROR LINDA MALONE: From friends and from
23 Roxanne Ballard. I did not live here at the time this
24 occurred.

25 THE COURT: And you and Miss Ballard are, are
26 friends.

27 JUROR LINDA MALONE: Right.

28 THE COURT: And has anything that you might
29 have heard about the case caused you to form any opinion

1 concerning the innocence or guilt of Mr. Flowers?

2 JUROR LINDA MALONE: No.

3 THE COURT: And can you lay aside any
4 friendship with Miss Ballard or any knowledge of the case
5 and base your decision strictly on the evidence presented
6 here in court?

7 JUROR LINDA MALONE: Yes.

8 THE COURT: Okay. Thank you.

9 And 139. Miss Dumas, how did you hear about it?

10 JUROR RUBY DUMAS: By the news media and in the
11 community.

12 THE COURT: And has anything that you've heard
13 through the news or out in the community -- the community
14 caused you to form an opinion concerning the innocence or
15 guilt of Mr. Flowers?

16 JUROR RUBY DUMAS: Yes.

17 THE COURT: And could you lay that aside and
18 base your decision on the evidence or is your opinion
19 fixed to the extent you cannot lay it aside?

20 JUROR RUBY DUMAS: I can.

21 THE COURT: You can lay it aside.

22 JUROR RUBY DUMAS: I can.

23 THE COURT: Are you saying can or can't?

24 JUROR RUBY DUMAS: Can.

25 THE COURT: Okay. Thank you. I appreciate
26 that. I was having trouble hearing.

27 Mr. Jackson, have you -- or what have you heard?
28 Not what have you heard. How did you hear about the
29 case?

1 JUROR ARTHUR JACKSON: Just in the news media.

2 THE COURT: And did anything you hear through
3 the media cause you to form an opinion concerning the
4 innocence or guilt of Mr. Flowers?

5 JUROR ARTHUR JACKSON: No, sir.

6 THE COURT: And can you lay aside anything that
7 you heard outside of court and base your decision only on
8 the evidence presented here in court?

9 JUROR ARTHUR JACKSON: Yes, sir.

10 THE COURT: Okay. Thank you.

11 And then Mr. Collins, and how did you hear about it?

12 JUROR GEORGE COLLINS: Media and the community.

13 THE COURT: And has anything that you might
14 have seen through the media or heard out in the community
15 caused you to form any opinion concerning the innocence
16 or guilt of Mr. Flowers?

17 JUROR GEORGE COLLINS: No, sir.

18 THE COURT: And can you lay aside any, any
19 information gathered outside of court and base your
20 decision only on the evidence presented here in court?

21 JUROR GEORGE COLLINS: Yes, sir.

22 THE COURT: Thank you.

23 Number 146. Mr. Caffey, and how did you hear about
24 it?

25 JUROR CONNER CAFFEY: From living here at the
26 time and through the news media.

27 THE COURT: And has anything you've seen or
28 heard caused you to form any opinion concerning the
29 innocence or guilt of Mr. Flowers?

1 JUROR CONNER CAFFEY: No, sir.

2 THE COURT: And can you lay aside any
3 information you gathered outside of court and base your
4 decision only on the evidence presented here in court?

5 JUROR CONNER CAFFEY: Yes, sir.

6 THE COURT: Okay. Thank you.

7 Ball, is that how you --

8 JUROR DEBORAH BALLE: Balle.

9 THE COURT: Say that again.

10 JUROR DEBORAH BALLE: Balle.

11 THE COURT: Okay. Miss Balle, how did you hear
12 about the case?

13 JUROR DEBORAH BALLE: I was living out of state
14 at the time and was informed by family members. And then
15 in the past year, I have heard about it through the news
16 media.

17 THE COURT: And Miss Balle, has anything you've
18 heard about the case caused you to form an opinion
19 concerning the innocence or guilt?

20 JUROR DEBORAH BALLE: No, sir.

21 THE COURT: And can you lay side any
22 information you gathered outside of court and base your
23 decision only on the evidence presented here in court?

24 JUROR DEBORAH BALLE: Yes, sir.

25 THE COURT: Okay. Thank you.

26 Mr. Taylor, how did you come to hear about it?

27 JUROR MICHAEL TAYLOR: Just the media and just
28 living here.

29 THE COURT: And has anything that you might

1 have heard or seen caused you to form any opinion
2 concerning the guilt or innocence of Mr. Flowers?

3 JUROR MICHAEL TAYLOR: Yes, sir, it has.

4 THE COURT: And you have got a fixed opinion.
5 And could that be set aside or...

6 JUROR MICHAEL TAYLOR: No, sir, it couldn't.

7 THE COURT: Okay. Thank you.

8 And Number 152. Mr. Kyle, how did you hear about
9 it?

10 JUROR STEPHEN KYLE: News media and community.

11 THE COURT: And has anything that you might
12 have seen in the news or heard out in community caused
13 you to form any opinion concerning the innocence or guilt
14 of Mr. Flowers?

15 JUROR STEPHEN KYLE: No, sir.

16 THE COURT: Can you lay aside anything you
17 might have seen or heard outside of court and base your
18 decision only on the evidence presented here in court?

19 JUROR STEPHEN KYLE: Yes, sir.

20 THE COURT: Okay. Thank you.

21 And Number 153. Miss Butts, how did you hear about
22 it?

23 JUROR NORA BUTTS: I didn't really hear about
24 the case. I worked in the emergency room when one of the
25 victims was brought in.

26 THE COURT: Was that when Mr. Stewart was
27 brought in?

28 JUROR NORA BUTTS: Correct.

29 THE COURT: And did anything about that cause

1 you to form -- or anything you have seen or heard or any
2 information at all caused you to form any opinion
3 concerning the guilt or innocence of Mr. Flowers?

4 JUROR NORA BUTTS: No. I was just the clerk.
5 So I didn't see or hear anything there.

6 THE COURT: And can you lay aside any
7 information you heard outside of court and base your
8 decision only on the evidence presented here in court?

9 JUROR NORA BUTTS: Yes.

10 THE COURT: Okay. Thank you.

11 And then Mr. Little, how did you hear about it?

12 JUROR BENJAMIN LITTLE: Word of mouth, family,
13 and co-workers.

14 THE COURT: And has anything that you might
15 have heard caused you to form any opinion concerning the
16 guilt or innocence of Mr. Flowers?

17 JUROR BENJAMIN LITTLE: Yes, sir.

18 THE COURT: And is that a fixed opinion, or
19 could you lay that opinion aside?

20 JUROR BENJAMIN LITTLE: No, sir. I've been
21 wrong before.

22 THE COURT: So you can lay that opinion aside.

23 JUROR BENJAMIN LITTLE: Yes, sir.

24 THE COURT: And will you lay that opinion
25 aside?

26 JUROR BENJAMIN LITTLE: Yes, sir.

27 THE COURT: And will you base that decision
28 only on the evidence presented here in court?

29 JUROR BENJAMIN LITTLE: Yes, sir.

1 THE COURT: Okay. Thank you.

2 And Miss Bailey, how did you hear about it?

3 JUROR SUZANNE BAILEY: The media. The
4 community. And of course, with Bobo being a student at
5 school, it was discussed at school.

6 THE COURT: And has anything that you might
7 have heard or seen or any knowledge you have of the case
8 caused you to form any opinion concerning the guilt or
9 innocence of Mr. Flowers?

10 JUROR SUZANNE BAILEY: No, sir.

11 THE COURT: And can you lay aside any
12 information you gathered outside of court and base your
13 decision only on the evidence presented here in court?

14 JUROR SUZANNE BAILEY: Yes, sir.

15 THE COURT: Okay. Thank you.

16 And then 156. Miss Bailey, Angela Bailey.

17 JUROR ANGELA BAILEY: Right.

18 THE COURT: How did you hear about it?

19 JUROR ANGELA BAILEY: I read it in the
20 newspaper, and I work in a beauty shop.

21 THE COURT: And has any information you heard
22 outside of court caused you to form any opinion
23 concerning the innocence or guilt of Mr. Flowers?

24 JUROR ANGELA BAILEY: It has.

25 THE COURT: And would you be able to lay that
26 opinion aside, or is that opinion fixed to the extent you
27 could not lay it aside?

28 JUROR ANGELA BAILEY: No, I couldn't.

29 THE COURT: Ma'am.

1 JUROR ANGELA BAILEY: It's fixed.

2 THE COURT: Okay. Thank you.

3 Mr. Tompkins, Number 157, and how did you hear about
4 it?

5 JUROR DANNY TOMPKINS: News media and
6 community.

7 THE COURT: And Mr. Tompkins, has that caused
8 you to form any opinion concerning the guilt or innocence
9 of Mr. Flowers?

10 JUROR DANNY TOMPKINS: No.

11 THE COURT: And can you lay aside any
12 information you have heard outside of court and base your
13 decision only on the evidence presented here in court?

14 JUROR DANNY TOMPKINS: Yes, sir.

15 THE COURT: Okay. Thank you.

16 And Miss Moore, how did you hear about it?

17 JUROR JEANETTE MOORE: Through the news media.

18 THE COURT: And has anything that you've heard
19 through the media caused you to form any opinion about
20 the case concerning the guilt or innocence of Mr.
21 Flowers?

22 JUROR JEANETTE MOORE: Yes.

23 THE COURT: And is that a fixed opinion or
24 could that opinion be set aside?

25 JUROR JEANETTE MOORE: I'm not sure.

26 THE COURT: So you are doubtful about whether
27 you -- you've got a opinion, and you're doubtful about
28 whether your mind could be changed; is that --

29 JUROR JEANETTE MOORE: I do.

1 THE COURT: Okay. Thank you.

2 JUROR JEANETTE MOORE: You're welcome.

3 THE COURT: And Mr. Williams, and how did you
4 hear about it?

5 JUROR JAMES WILLIAMS: From the news.

6 THE COURT: And did anything you heard through
7 the news cause you to form an opinion as to the guilt or
8 innocence of Mr. Flowers?

9 JUROR JAMES WILLIAMS: No, sir.

10 THE COURT: It has not.

11 JUROR JAMES WILLIAMS: No.

12 THE COURT: And can you lay aside anything that
13 you have heard outside of court and base your decision
14 only on the evidence presented here in court?

15 JUROR JAMES WILLIAMS: Yes, sir.

16 THE COURT: Okay. Thank you.

17 And then Mr. Hudson, how did you hear about the
18 case?

19 JUROR CHARLES HUDSON: Through the news and
20 community.

21 THE COURT: And has that caused you to form any
22 opinion about the guilt or innocence of Mr. Flowers?

23 JUROR CHARLES HUDSON: Yes, it has. Yes.

24 THE COURT: And is that -- could that opinion
25 be set aside, or is it fixed to the extent you could not
26 set that aside?

27 JUROR CHARLES HUDSON: I can't.

28 THE COURT: Okay. Thank you.

29 And Number 165. Mr. Costilow, and how did you hear

1 about it?

2 JUROR BENNY COSTILOW: I heard it through the
3 community, people talking.

4 THE COURT: And could you lay aside anything
5 you've heard outside of the court and base your decision
6 only on the evidence presented here in court? Or is your
7 opinion fixed to the extent --

8 JUROR BENNY COSTILOW: My opinion is fixed, and
9 my mind is made up.

10 THE COURT: Your mind is made up and that could
11 not be set aside.

12 JUROR BENNY COSTILOW: Could not be set aside.

13 THE COURT: Okay. Thank you.

14 Anyone else that has not spoken up?

15 Counsel, if you will approach.

16 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
17 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
18 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
19 PROSPECTIVE JURORS.)

20 THE COURT: I was just thinking about going
21 ahead and excusing a few more.

22 Okay. I think we have had several people that have
23 said they've got minds made up and fixed opinions. And
24 unless y'all -- if y'all disagree, I would want you
25 to let me know.

26 I've got Number 9, Carter, who's justice court
27 clerk. And I think she sat in and listened to some of
28 the previous trial. Do y'all agree to that?

29 MR. DEGRUY: (Nodded.)

1 MR. EVANS: Yes, sir.

2 THE COURT: And then -- let's see. Number 29,
3 Bailey. Do y'all agree?

4 MR. EVANS: Yes.

5 THE COURT: Let's see. Thirty-eight, Corley.

6 MR. EVANS: Yes, sir.

7 MR. CARTER: Which one? Thirty-eight?

8 THE COURT: Thirty-eight, Corley. Said he made
9 up his mind and couldn't change it.

10 MR. CARTER: Yes.

11 THE COURT: And let's see. Sixty-five, Amason.
12 Do y'all agree on that?

13 MR. EVANS: Yes, sir.

14 MR. DEGRUY: Yes.

15 THE COURT: Okay. Eighty-nine. Land.

16 MR. EVANS: Yes, sir.

17 MR. DEGRUY: Yes.

18 THE COURT: Ninety-five. Hodges.

19 MR. DEGRUY: Yes.

20 MR. EVANS: We agree.

21 MS. STEINER: She said she wasn't sure.

22 THE COURT: I think she said she said she
23 wasn't sure if she could set her opinion aside.

24 MR. EVANS: She had doubts whether she could
25 set the opinion aside.

26 THE COURT: So y'all agree?

27 MR. DEGRUY: Yes.

28 THE COURT: Let's see. And then Number 109.
29 Lancaster.

1 MR. CARTER: Yes, sir.
2 MR. EVANS: Yes, sir.
3 THE COURT: And 120, Roberson.
4 MR. EVANS: Yes, sir.
5 MR. DEGRUY: Yes, sir.
6 THE COURT: And 130, Townsend.
7 MR. CARTER: One-thirty.
8 THE COURT: Do y'all agree?
9 MR. DEGRUY: Yes.
10 THE COURT: And let's see. One-fifty, Taylor.
11 MR. EVANS: Yes, sir.
12 MR. DEGRUY: Yes.
13 THE COURT: And let's see. 156, Bailey.
14 MR. DEGRUY: Yes.
15 MR. EVANS: Yes, sir.
16 THE COURT: Miss Moore, Number 160.
17 MS. MELANIE CARR: She said she wasn't sure.
18 MR. EVANS: She said she was doubtful she could
19 set it aside.
20 MR. CARTER: One-sixty. Doubtful.
21 MR. DEGRUY: I think she did say doubtful.
22 THE COURT: So y'all agree on her?
23 MR. DEGRUY: Yes, sir.
24 MR. EVANS: Yes, sir.
25 THE COURT: Then 164, Hudson.
26 MR. EVANS: Yes, sir.
27 MR. DEGRUY: Yes, sir.
28 MR. CARTER: Yes.
29 THE COURT: Then 165, Costilow.

1 MR. DEGRUY: Yes, sir.

2 MR. EVANS: Yes, sir.

3 THE COURT: I guess while I have got y'all up
4 here - of course, I am going to -- as far as I am going
5 to ask questions about individual witnesses, I mean, I am
6 not -- I am going to at least question the jury about
7 potential witnesses. And I have gone through and got a
8 list of witnesses from last time. Are there any other
9 potential witnesses that y'all have out?

10 MR. EVANS: There will be at this time since it
11 is a death penalty case, Your Honor.

12 THE COURT: Who might they be because I want to
13 go ahead and --

14 MRS. STEINER: Your Honor, may I step back?

15 THE COURT: Certainly.

16 (MRS. STEINER RETURNED TO COUNSEL TABLE.)

17 MR. EVANS: It's not in the court file.

18 THE COURT: I can move on to another question
19 and then just get that to me so that I can ask the jurors
20 later because I want to go through the list of witnesses.

21 If y'all will, just write them down and give them to
22 me. That will probably be the question I will ask right
23 after lunch.

24 MR. EVANS: All right, sir.

25 (THE BENCH CONFERENCE WAS CONCLUDED.)

26 THE COURT: There are a few more that I will be
27 able to let go at this time. So if your name is called,
28 you are free to go. Karen Carter. Wayne Paul Bailey.
29 Melody Corley. Walter Amason. Colby Land. Sally

1 Hodges. Angela Lancaster. Ethelene Roberson. Stanley
2 Townsend. Michael Taylor. Angela Bailey. Jeanette
3 Moore. Charles Hudson. Benny Costilow.

4 Ladies and gentlemen, the next question that -- this
5 may at first seem a foolish question, but I want you to
6 look around the jury panel that is still here. And I
7 want to know if any of you are related by blood or by
8 marriage to somebody else that is on the panel.

9 And I will explain why I'm asking that. But if you
10 are related to somebody else that is on the panel, if you
11 will, please, stand.

12 Okay. We'll start first with Number 2. And Miss
13 Boles, who are you related to on the panel?

14 JUROR RUTHIE BOLES: Annette Purnell.

15 THE COURT: And what is her number?

16 JUROR RUTHIE BOLES: Number 70.

17 THE COURT: Related to number 70.

18 JUROR RUTHIE BOLES: Number 70.

19 THE COURT: And how are y'all related?

20 JUROR RUTHIE BOLES: Number 43.

21 THE COURT: Okay. Seventy --

22 JUROR RUTHIE BOLES: Go back to Number 70. We
23 are two sister's children.

24 THE COURT: You're -- how are you related?

25 JUROR RUTHIE BOLES: Two sister's children.

26 MR. EVANS: First cousin.

27 THE COURT: First cousin. Okay. Is that
28 right?

29 JUROR RUTHIE BOLES: Right.

1 THE COURT: And then how are you related to
2 Number 43?

3 JUROR RUTHIE BOLES: Number 43. He married my
4 niece.

5 THE COURT: And Miss Boles, if you were on the
6 panel jury with either or both of these relatives --

7 JUROR RUTHIE BOLES: One more.

8 THE COURT: Oh, okay. Like family reunion
9 time.

10 JUROR RUTHIE BOLES: One hundred seven.

11 THE COURT: Okay. And how are you related to
12 Number 107?

13 JUROR RUTHIE BOLES: Her father and I are
14 cousins.

15 THE COURT: And if you were on the panel with
16 any of the relatives, would you feel you had to agree
17 with them on the case, or would you be able to judge the
18 case independently of your relatives?

19 JUROR RUTHIE BOLES: I can judge, judge
20 independently --

21 THE COURT: So you --

22 JUROR RUTHIE BOLES: -- because I have my own
23 mind.

24 THE COURT: Okay. And you wouldn't feel like
25 you had to go along with them just because y'all were
26 related.

27 JUROR RUTHIE BOLES: Right.

28 THE COURT: Okay. Thank you.

29 And Number 43, where are you?

1 JUROR BEN SANDERS: (Stood up.)

2 THE COURT: And are you related to anybody
3 else, other than Miss Boles?

4 JUROR BEN SANDERS: Ann Newman.

5 THE COURT: Okay. And what is her number?

6 JUROR BEN SANDERS: One hundred thirty-five.

7 THE COURT: And how are you kin to her, 135?

8 JUROR BEN SANDERS: We are brother --

9 THE COURT: Huh?

10 JUROR BEN SANDERS: We married brothers and
11 sisters.

12 THE COURT: And if you were on the panel with
13 Miss Boles, would you feel you had to agree with her just
14 because y'all were somehow related, or would you judge it
15 independently of her?

16 JUROR BEN SANDERS: (Shook head.)

17 THE COURT: Would you look at it independently
18 of her?

19 JUROR BEN SANDERS: (Nodded.)

20 THE COURT: Okay. And if you were on with,
21 with Miss Robinson, would you judge it independently of
22 her?

23 JUROR BEN SANDERS: (Shook head.)

24 THE COURT: Would you feel like you had to go
25 along with her?

26 JUROR BEN SANDERS: No.

27 THE COURT: Okay. So you will look at it
28 independently.

29 JUROR BEN SANDERS: (Nodded.)

1 THE COURT: Okay. Thank you. You can be
2 seated.

3 I guess, 111, while you are standing here, we'll --
4 who are you related to?

5 JUROR MELBA RODGERS: (Waved fan with juror
6 number.)

7 THE COURT: Okay. Number 52 and 111.

8 Okay. Miss Laster, how are you and Miss Rodgers
9 related?

10 JUROR DEBORAH LASTER: We are sisters.

11 THE COURT: Oh, okay.

12 JUROR MELBA RODGERS: She is older.

13 THE COURT: Well, Miss Laster, if you and your
14 sister were on the jury panel together, would you be able
15 to judge it independently of her?

16 JUROR DEBORAH LASTER: Certainly.

17 THE COURT: And you wouldn't feel like you had
18 to go along with her just because she was your sister.

19 JUROR DEBORAH LASTER: No, sir.

20 THE COURT: And Miss Rodgers, if you and Miss
21 Laster were on the jury panel together, would you feel
22 you had to go along with her because she is your sister?

23 JUROR MELBA RODGERS: No, sir.

24 THE COURT: And you would judge it
25 independently of her.

26 JUROR MELBA RODGERS: Yes, sir.

27 THE COURT: Thank you.

28 And Miss Boles, did we have somebody else that you
29 were related to?

1 JUROR RUTHIE BOLES: Yes, sir, Your Honor.
2 Number 35.

3 THE COURT: Okay. How are you related to Mr.
4 Newman?

5 JUROR RUTHIE BOLES: Through a previous
6 marriage.

7 THE COURT: And would that affect you or cause
8 you -- or would you be able to judge the case
9 independently of him if you were both on it --

10 JUROR RUTHIE BOLES: Right.

11 THE COURT: -- and serving together?

12 JUROR RUTHIE BOLES: I could.

13 THE COURT: Okay. Thank you.

14 And then Miss McClurg, and who are you related to?

15 JUROR SHERYL MCCLURG: Twenty-six.

16 THE COURT: And that is Miss Branch.

17 JUROR SHERYL MCCLURG: Um-hum.

18 THE COURT: And how are you and Miss Branch
19 related?

20 JUROR SHERYL MCCLURG: We should be about third
21 cousins.

22 JUROR LISA BRANCH: Third.

23 THE COURT: And if you and -- if you and Miss
24 Branch were on the panel together, would you feel like
25 you had to go along with her or could you judge it
26 independently of her?

27 JUROR SHERYL MCCLURG: Go along with her?

28 THE COURT: I mean you wouldn't automatically
29 just agree with her because of being relatives or

1 anything.

2 JUROR SHERYL MCCLURG: Oh, no.

3 THE COURT: So you will judge it independently
4 of her.

5 Miss, Miss Branch, if you and Miss McClurg were on
6 the panel together, would you be able to judge the case
7 independently of her?

8 JUROR LISA BRANCH: Yes, sir, I sure would.

9 THE COURT: Okay. And are you related to
10 anybody else?

11 JUROR LISA BRANCH: No, sir.

12 THE COURT: Okay. Ladies, if you will both be
13 seated then.

14 And Miss Lancaster, who -- I'm sorry.

15 Miss Johnson, who are you related to?

16 JUROR CINDY JOHNSON: Number 60. By marriage.

17 THE COURT: How are --

18 JUROR CINDY JOHNSON: If I'm related to anybody
19 else I don't know, because I'm not from here.

20 THE COURT: Okay. And how are you related to
21 Miss Blakely?

22 JUROR CINDY JOHNSON: She is my husband's aunt.

23 THE COURT: And would that -- if you and Miss
24 Blakely were on the panel together, would you feel like
25 y'all had to go along with each other, or would you judge
26 it independently of her?

27 JUROR CINDY JOHNSON: Yes, sir.

28 THE COURT: And Miss Blakely, if you and Miss
29 Johnson were on the panel together, would you feel --

1 would you be able to judge it independently of her?

2 JUROR SHIRLEY BLAKELY: Yes, sir.

3 THE COURT: And do you have any other kinship
4 on the panel?

5 JUROR SHIRLEY BLAKELY: No.

6 THE COURT: Okay. Thank you.

7 And okay. Number 35. Mr. Newman, and who are you
8 related to?

9 JUROR MOSES NEWMAN: One hundred seven.

10 THE COURT: And how are y'all related?

11 JUROR MOSES NEWMAN: Her grandfather and my
12 grandmother are brother and sister.

13 THE COURT: Her grandfather and your
14 grandmother --

15 JUROR MOSES NEWMAN: Brother and sister.

16 THE COURT: Be about second or third cousin.
17 Somewhere along in there.

18 JUROR MOSES NEWMAN: Yes.

19 THE COURT: And if you were on the panel with
20 Miss Purnell, would you feel you had to agree with her
21 because y'all were related, or would you judge it
22 independently of her?

23 JUROR MOSES NEWMAN: I can judge independently.

24 THE COURT: Okay. And Miss Purnell, if you
25 were on the panel with Mr. Newman, would you be able to
26 judge the case independently of him?

27 JUROR STACY BLACK: I'm Miss Black.

28 THE COURT: Oh, he said 107. I thought he said
29 70. I'm sorry. I thought he said -- I'm sorry. I had

1 written down 70, and I wasn't paying attention to the
2 number that you were holding up.

3 So, so Miss Black, if you and Mr. Newman were on the
4 panel together, would you feel you had to agree with him,
5 or would you be able to judge it independently of him?

6 JUROR STACY BLACK: Independently.

7 THE COURT: And are you related to anybody else
8 on the panel?

9 JUROR STACY BLACK: Number 2.

10 THE COURT: Are you related to anybody else,
11 Mr. Newman?

12 JUROR MOSES NEWMAN: (Indicated.)

13 THE COURT: Miss Boles.

14 JUROR MOSES NEWMAN: Yes.

15 THE COURT: And Mr. Newman and Miss Black, if
16 y'all were on it with Miss Boles, would you feel you had
17 to agree with her just to keep peace in the family, or
18 would y'all judge it independently of each other?

19 JUROR MOSES NEWMAN: Independent.

20 JUROR STACY BLACK: Independently.

21 THE COURT: If y'all will both be seated then.
22 Number 29.

23 (JUROR NUMBER 28, BRADFORD JOHNSON, WAS HOLDING UP THE
24 FAN OF JUROR NUMBER 29.)

25 JUROR BRADFORD JOHNSON: I'm sorry.

26 (JUROR NUMBER 28, BRADFORD JOHNSON, PUT DOWN THE FAN FOR
27 JUROR NUMBER 29 AND PICKED UP HIS FAN.)

28 THE COURT: I knew he had been excused.

29 Okay. Mr. Johnson, who are you related to?

1 JUROR BRADFORD JOHNSON: Number 121.

2 THE COURT: And how are y'all related?

3 JUROR BRUCE WELCH: Grandparents are brothers
4 and sisters. We are about third cousins.

5 THE COURT: Okay. And Mr. Johnson, if you were
6 on the panel with Mr. Welch, would you feel you had to
7 agree with him to go along just to get a verdict, or
8 could you judge it independently of him?

9 JUROR BRADFORD JOHNSON: I could judge it
10 independently.

11 THE COURT: And Mr. Welch, if you and Mr.
12 Johnson were on the panel together, would you judge it
13 independently of him?

14 JUROR BRUCE WELCH: Yes, sir.

15 THE COURT: Okay. And Mr. Welch, do you have
16 any other relative on the panel?

17 JUROR BRUCE WELCH: No, sir.

18 THE COURT: Mr. Johnson, do you?

19 JUROR BRADFORD JOHNSON: No, sir.

20 THE COURT: Okay. Number 45. Miss Braswell,
21 who are you related to?

22 JUROR BURNADETTE BRASWELL: One-fifty-seven.

23 THE COURT: One-sixty-seven.

24 JUROR BURNADETTE BRASWELL: Fifty.
25 One-fifty-seven.

26 THE COURT: One-fifty-seven. Okay. How are
27 y'all related?

28 JUROR BURNADETTE BRASWELL: My grandmother and
29 his daddy were brothers and sisters.

1 THE COURT: That is cousin by some degree.

2 JUROR BURNADETTE BRASWELL: Yes.

3 THE COURT: If you and Mr. Tompkins were on
4 this panel together, would you feel you had to agree with
5 him just because y'all were related or anything like
6 that?

7 JUROR BURNADETTE BRASWELL: No, sir.

8 THE COURT: And Mr. Tompkins, if you were on
9 this panel with Miss Braswell, would you feel you had to
10 agree with her just because y'all were related to each
11 other?

12 JUROR DANNY TOMPKINS: No, sir.

13 THE COURT: Okay. If y'all will both be seated
14 then. Thank you.

15 And Number 70. Miss Purnell, who are you related
16 to?

17 JUROR MARY PURNELL: Number 2.

18 THE COURT: And if you and Miss Boles were on
19 the panel together, would you feel you had to agree with
20 her just because y'all were relatives or anything like
21 that?

22 JUROR MARY PURNELL: No, sir.

23 THE COURT: Okay. And then -- thank you. You
24 can be seated.

25 Number 98.

26 JUROR CARON HARRIS: Dot Turner. She is
27 married to --

28 THE COURT: Okay. What number is her -- 98 and
29 88. Okay.

1 JUROR CARON HARRIS: She is married to one of
2 my first cousins, Jimmy Turner.

3 THE COURT: And if y'all were on the panel
4 together, would you be able to judge the case
5 independently of Miss Turner?

6 JUROR CARON HARRIS: Yes.

7 THE COURT: And Miss Turner, if you and Miss
8 Harris were on the panel together, would you be able to
9 judge that case independently of her?

10 JUROR DOROTHY TURNER: Yes, sir.

11 THE COURT: Okay. Thank you.

12 And Number 80, who are you related to on the panel?

13 JUROR JOYCE BUTTS: Number 139.

14 THE COURT: And how are you and Miss Dumas
15 related?

16 JUROR JOYCE BUTTS: We are distant cousins
17 somewhere.

18 THE COURT: Distant cousins. And if -- Miss
19 Butts, if you and Miss Dumas were on the panel together,
20 would you be able to judge the case independently of her?

21 JUROR JOYCE BUTTS: Yes, sir.

22 THE COURT: And you would not feel like y'all
23 had to agree because of y'all being kin.

24 JUROR JOYCE BUTTS: That's right.

25 THE COURT: Okay. And Miss Dumas, if you and
26 Miss Butts were seated together on the jury panel, would
27 you be able to judge it independently of her?

28 JUROR RUBY DUMAS: Yes, sir.

29 THE COURT: And would you feel you had to go

1 along with her just because y'all were relatives?

2 JUROR RUBY DUMAS: No.

3 THE COURT: Okay. Thank you. If you will both
4 be seated, please.

5 Number 126. Miss Caffey, who are you related to?

6 JUROR LOUISE CAFFEY: Number 146.

7 THE COURT: And how are you and Mr. Caffey
8 related?

9 JUROR LOUISE CAFFEY: He is my son.

10 THE COURT: Okay. I've got a tricky question
11 now.

12 Miss Caffey, if you and your son were both on the
13 panel together, would you feel that you would have to go
14 along with him or view the case the same way because of
15 y'all's relationship?

16 JUROR LOUISE CAFFEY: No, sir.

17 THE COURT: And so you would judge it
18 independently of him.

19 JUROR LOUISE CAFFEY: Yes, sir.

20 THE COURT: And Mr. Caffey, if you and your mom
21 were on the panel together, to keep peace in the family
22 would you feel like you had to go along with her or could
23 you --

24 JUROR CONNER CAFFEY: Why start now, Judge?
25 No, sir.

26 THE COURT: Could you judge it independently?

27 JUROR CONNER CAFFEY: Yes, sir.

28 THE COURT: And you wouldn't have to feel like
29 you had to agree just because y'all were son and mother.

1 JUROR CONNER CAFFEY: No, sir.

2 THE COURT: So you will judge it independently
3 of her.

4 JUROR CONNER CAFFEY: Yes, sir.

5 THE COURT: Thank you.

6 If y'all two will be seated, please.

7 Okay. One-thirty-five. And who are you related to?
8 Or maybe -- are you --

9 JUROR ANN ROBINSON: Number 2 and Number 143 by
10 marriage.

11 THE COURT: Okay. Hold on. Let me write this
12 down.

13 Okay. And Miss Robinson, you are related to Miss
14 Boles and who else?

15 JUROR ANN ROBINSON: Ben Sanders.

16 THE COURT: Can you speak up?

17 JUROR ANN ROBINSON: Ben Sanders.

18 THE COURT: Okay. And what is his number?

19 JUROR ANN ROBINSON: Forty-three.

20 THE COURT: How are you related to Miss Boles?

21 JUROR ANN ROBINSON: I married her nephew.

22 THE COURT: And how are you related to, to
23 Number 43?

24 JUROR ANN ROBINSON: My husband is his
25 brother-in-law.

26 THE COURT: And if you were on the panel with
27 Mr. Sanders or Miss Boles, would you feel like you had to
28 agree with them or judge the case the same way because of
29 being related to them?

1 JUROR ANN ROBINSON: No, I follow my own mind.

2 THE COURT: Own your own mind. Okay.

3 Appreciate that. If you will, be seated, please.

4 Number 136. And Mr. Collins, who is it you are
5 related to?

6 JUROR AUNDRATE COLLINS: One-forty-four.

7 THE COURT: And how are y'all related?

8 JUROR AUNDRATE COLLINS: About second cousin.

9 THE COURT: Okay. Mr. -- is it Aundrate?

10 JUROR AUNDRATE COLLINS: Yes.

11 THE COURT: Mr. Aundrate Collins, if you and
12 Mr. George Collins were on the panel together, would you
13 feel like you had to agree with him just because y'all
14 were related to each other?

15 JUROR AUNDRATE COLLINS: No, sir.

16 THE COURT: And would you judge the case
17 independently of your cousin?

18 JUROR AUNDRATE COLLINS: Yes, sir.

19 THE COURT: Okay. And Mr. George Collins, if
20 you and Mr. Aundrate Collins were on the panel together,
21 would you judge it independently of him?

22 JUROR GEORGE COLLINS: Yes, sir.

23 THE COURT: And would you feel like in any way
24 you had to go along with him because y'all were related?

25 JUROR GEORGE COLLINS: No, sir.

26 THE COURT: Okay. Gentlemen, if y'all will
27 both be seated, please.

28 And 122. Mr. Hemphill, who are you related to?

29 JUROR BENJAMIN HEMPILL: One-thirty-eight.

1 THE COURT: And Mr. Hemphill, how are you and
2 Miss Townsend related?

3 JUROR BENJAMIN HEMPHILL: We are fourth
4 cousins.

5 THE COURT: Fourth cousins. And if you and she
6 were on the panel together, would you feel like you had
7 to go along with her or view the case the same because of
8 y'all being related?

9 JUROR BENJAMIN HEMPHILL: No.

10 THE COURT: Okay. Thank you, Mr. Hemphill.

11 And Miss Townsend, if you and Mr. Hemphill were on
12 the panel together, would you be able to judge the case
13 independently of him?

14 JUROR CHANNA TOWNSEND: (Nodded.)

15 THE COURT: And would you feel like you had to
16 go along with him just because of y'all being relatives?

17 JUROR CHANNA TOWNSEND: No.

18 THE COURT: Okay. Thank you. I'm guessing
19 that 147 and 153.

20 Miss Smith, 147, how are you related to Miss Butts?

21 JUROR JAMITA SMITH: I don't know who I'm
22 related to. I just moved down here three years ago. So
23 I just --

24 THE COURT: So you are still learning relatives
25 then.

26 JUROR JAMITA SMITH: Yes, sir.

27 THE COURT: And are you related to Miss Butts?

28 JUROR JAMITA SMITH: I have no idea.

29 THE COURT: Okay. So you are just saying that,

1 that you may have some relatives that you don't know.

2 JUROR JAMITA SMITH: I don't know.

3 THE COURT: Okay. I assume that wouldn't be a
4 factor then in you being a fair and impartial juror.

5 JUROR JAMITA SMITH: No.

6 THE COURT: Well, Miss Butts, who, who are you
7 related to?

8 JUROR NORA BUTTS: Number 80. Number 138.
9 Number 139.

10 THE COURT: Number, Number 138. Is that what
11 you said?

12 JUROR NORA BUTTS: Number 80.

13 THE COURT: Okay.

14 JUROR NORA BUTTS: Number 138. And Number 139.

15 THE COURT: Okay. Well, how are you and --
16 your Number 80, Miss Butts, related?

17 JUROR NORA BUTTS: I am uncertain as to what
18 degree I am related to any of them.

19 THE COURT: But you are some distant kin of
20 some fashion.

21 JUROR NORA BUTTS: It is at least past the
22 second cousin stage.

23 THE COURT: If you and any of your relatives
24 were on the panel together, would you feel like you had
25 to agree with them or go along with them because of you
26 being relatives of theirs?

27 JUROR NORA BUTTS: No.

28 THE COURT: And can you judge the case
29 independently of any of your relatives?

1 JUROR NORA BUTTS: I can.

2 THE COURT: Okay. Thank you.

3 Ladies and gentlemen, at this time --

4 I'm sorry. Miss McNeer.

5 JUROR SHIRLEY MCNEER: Judge, in light of all
6 these kinship questions, this is something that I did not
7 disclose yesterday that may or may not be important.

8 Mr. Evans married my brother's widow and raised my
9 niece. So I just thought maybe I should disclose that
10 information.

11 MR. CARTER: Thank you.

12 THE COURT: And would that be a factor or
13 influence you in being a fair and impartial juror?

14 JUROR SHIRLEY MCNEER: No. No, it would not.

15 THE COURT: Thank you. I appreciate that Miss
16 McNeer. And you've illustrated a point that I
17 continually remind all of you of. And that is if
18 something later on comes up that triggers your memory
19 about a case -- a previous question, I always want you to
20 speak up and let me know.

21 Ladies and gentlemen, I am going to allow you to
22 recess for an hour for lunch. I will ask you during this
23 recess please do not discuss this case with anyone or
24 among yourselves.

25 If you should be coming back from lunch and see the
26 lawyers out in the hall or any of the parties or
27 witnesses, they can't talk to you. They can't even nod
28 your way. So if they ignore you, they are doing that
29 because they are just following the court rules.

1 So with that, ladies and gentlemen, if you will be
2 back in here --

3 Okay. Number 35.

4 JUROR MOSES NEWMAN: I don't know if this
5 really affects anything, but Mr. Flowers and I were
6 classmates and stuff.

7 THE COURT: Y'all --

8 JUROR MOSES NEWMAN: He got out earlier.

9 THE COURT: You were a classmate of his.

10 JUROR MOSES NEWMAN: Yeah. I graduated in '89.

11 THE COURT: And did you say y'all were some --
12 related to each other in some fashion?

13 JUROR MOSES NEWMAN: His, his, his grandmother
14 and my great grandmother.

15 THE COURT: And would those factors influence
16 you or affect you in any way?

17 JUROR MOSES NEWMAN: No, sir.

18 THE COURT: Okay. Thank you for speaking up,
19 Mr. Newman.

20 Again, ladies and gentlemen, now we will recess
21 until 1:00. If you will be back at that time, we will
22 resume.

23 (COURT RECESSED FOR THE NOON HOUR.)

24 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
25 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT. THE
26 PROSPECTIVE JURORS WERE ALSO PRESENT. PROCEEDINGS WERE AS
27 FOLLOWS:)

28 THE COURT: Gentlemen.

29 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

1 CARTER AND THE DEFENDANT, APPROACHED THE BENCH FOR THE
2 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
3 PROSPECTIVE JURORS.)

4 MR. EVANS: These are the ones right now that
5 we expect to use in the sentencing phase. There could be
6 a couple possible witnesses in the case in chief we
7 didn't use last time, but I don't know of anything major.

8 THE COURT: Okay. I know Sam Jones is
9 testifying by previous --

10 MR. EVANS: Transcript.

11 THE COURT: I know the --

12 MR. EVANS: Beneva Henry.

13 MR. DEGRUY: Porky Collins.

14 THE COURT: And who is --

15 MR. EVANS: Miss Beneva Henry.

16 THE COURT: Okay. Stacey Wright by --

17 MRS. STEINER: Stacey Wright is also testifying
18 by prior testimony.

19 THE COURT: Okay. And do y'all have right now
20 any that you know of besides these that were in the prior
21 trial?

22 MR. DEGRUY: The only possible one I think is
23 John Johnson.

24 THE COURT: Okay. I think --

25 MR. EVANS: He is on ours. Should be.

26 MR. DEGRUY: He didn't testify last time.

27 THE COURT: Okay. Well, I'll question them
28 about him.

29 MR. EVANS: We are going to probably put him --

1 and Wayne Miller didn't testify last time.

2 MR. DEGRUY: The defense called him. So he
3 will be on the list.

4 That is the list of potential mitigation witnesses.

5 THE COURT: I don't think -- if we go
6 through -- I think I'm just going to read the list of
7 witnesses. I am going to ask them, you know, if any of
8 them have a relationship with any of these witnesses
9 where because of it would cause them to view the
10 testimony differently or affect their ability to be fair
11 and impartial. Because if I go ask each individual
12 witness, I don't know, we could be here...

13 MR. EVANS: I think it is going to be necessary
14 on some of them. But we can go back over those
15 individual ones. But some of them I know we are going to
16 need to because a lot of them are related.

17 THE COURT: Well, we will see how it goes.
18 (THE BENCH CONFERENCE WAS CONCLUDED.)

19 THE COURT: Ladies and gentlemen, there are a
20 number of potential witnesses in this case, and just
21 because somebody's called -- named as a potential witness
22 today doesn't mean they are going to testify, but they
23 are potential. And so I will ask you about different
24 witnesses.

25 And one witness is a person named Sam Jones, Jr.
26 And if any of you know Sam Jones, Jr., if you will stand
27 at this time. I am going to take down your numbers. So
28 anybody that know Sam Jones, Jr.

29 And you're 31 and 43 and 92.

1 Okay. I, I note for the record Number 31, 43, 92,
2 140, 144, 139 and 155.

3 Have I got all your numbers?

4 And Number 2.

5 I will just ask this question rather than asking
6 each of you, but would the fact -- is there anything
7 about the fact that Mr. Jones is a witness in this case
8 that would affect you in being fair and impartial or
9 cause you to view his testimony differently from anybody
10 else that testifies? Any of you have any situation like
11 that?

12 JUROR RUTHIE BOLES: I have a question.

13 THE COURT: Yes, ma'am.

14 JUROR RUTHIE BOLES: This Sam Jones, is he a
15 older man?

16 THE COURT: He is an older man. And, and the
17 way he is going to testify is --

18 JUROR RUTHIE BOLES: I mean --

19 THE COURT: -- he gave some previous testimony
20 at another time, and his testimony will be read. He will
21 not actually appear live as a witness, but he will -- his
22 prior testimony under oath will be presented to the jury.
23 And but he is, I think, a relatively elderly man.

24 And do you know him after --

25 JUROR RUTHIE BOLES: Not personally.

26 THE COURT: And would the fact that he
27 testifies affect any of you in being fair and impartial
28 jurors? Okay. Y'all can be seated then.

29 And I imagine most of you are going to know the

1 chief of police here in Winona, Johnny Hargrove, or at
2 least you know who he is. And so I'll just ask you as a
3 group if you know Chief Hargrove and if the fact that you
4 know him would cause you to believe his testimony over
5 somebody else that you did not know or if you would give
6 his testimony greater weight or credibility because you
7 might know him and not know somebody else. Would any of
8 you have that situation as to Chief Hargrove?

9 And Dr. Timothy Hayne is the state or was the state
10 pathologist, I think, will be testifying. Do any of you
11 know Dr. Hayne? And I take it by your silence none of
12 you would know him.

13 Also a potential witness is Barry Eskridge. If
14 anybody knows Mr. Eskridge, if you will stand.

15 Okay. As I take -- well 8, 11, 13, 26, 28, 32 -
16 when I call your names, if you will be seated for a
17 second - 32, 64, 72, 79, 99, 85, 105, 110, 117, 126, 146
18 and 157.

19 Now, this is directed toward those that stated you
20 knew him. Would the fact that -- is there anything about
21 the fact that Mr. Eskridge might testify in this case
22 that would affect any of you in being a fair and
23 impartial juror or cause you to view his testimony
24 differently than you did some juror that you did not
25 know?

26 So each of you are assuring me by your silence that
27 his testimony will be considered but that you don't have
28 anything about him testifying that would affect you in
29 being a fair and impartial juror.

1 Okay. Melissa Schoene. S-c-h-o-e-n-e. I think she
2 is -- well, was working for the state crime lab, and I
3 doubt anybody would know her. But I wanted to ask. Do
4 any of you know her?

5 Okay. James Edward Kennedy. Does anybody know
6 James Edward Kennedy?

7 Catherine Snow.

8 Clemmie Fleming. Number 26. Number 99, 126, 155.
9 Those of you that have indicated you know Mr. Fleming
10 would -- if he testifies, would that in any way influence
11 you or affect you in being a fair and impartial juror?

12 MR. CARTER: That is a woman, Your Honor.

13 THE COURT: I'm sorry. Woman. Female. I'm
14 sorry.

15 And so do any of you have a situation where because
16 she might testify that would influence you at all? Okay.
17 Thank you.

18 And next potential witness -- and I suspect most of
19 you know who Bill Thornburg was, because he just retired
20 recently as sheriff, was chief deputy sheriff for many
21 years previous to him being sheriff.

22 So I will just ask if any of you have a situation
23 where you have got some kind of knowledge of chief -- I
24 mean of Sheriff Thornburg or knew him in the past or have
25 any relationship with him where because of that it would
26 affect your ability to be fair and impartial or where you
27 would judge his testimony differently because you might
28 know him and might not know somebody else. I take it by
29 your silence none of you have any type situation like

1 that.

2 How many of you know or do any of you know Jack
3 Matthews? I did not -- I think he works for the crime
4 lab or --

5 MR. EVANS: No, sir. He was highway patrol.
6 Now he works head of security in Greenwood hospital.

7 THE COURT: Okay. And with that, I take it
8 none of you know Mr. Matthews.

9 David Balash.

10 Is that how --

11 MR. EVANS: Balash.

12 THE COURT: Balash. Any of you know David
13 Balash?

14 Joe Edward Andrews. Do any of you know Joe Edward
15 Andrews?

16 How about Elaine Gholston? Any of you know her?
17 Elaine Gholston. G-h-o-l-s-t-o-n.

18 Mary Jeanette Fleming. Any of you know Mary
19 Jeanette Fleming?

20 Sharon Bailey.

21 I'm sorry. Do you know Miss Fleming, Mary Jeanette?

22 JUROR TINA HOLLAND: I work with a Mary
23 Fleming.

24 THE COURT: And what is your number?

25 JUROR TINA HOLLAND: Thirteen.

26 THE COURT: And what kind of work --

27 JUROR TINA HOLLAND: If it's the same one.

28 THE COURT: Where do y'all work?

29 JUROR TINA HOLLAND: Stay Home Health.

1 THE COURT: Counsel, do y'all know if that is
2 the same?

3 MR. EVANS: I think it is.

4 THE COURT: Okay. They think it is. So you
5 work with her.

6 JUROR TINA HOLLAND: Um-hum.

7 THE COURT: And would the fact that you work
8 with her affect you in being a fair and impartial juror
9 in this case?

10 JUROR TINA HOLLAND: No, sir.

11 THE COURT: Would that cause you to look at her
12 testimony differently than somebody you didn't know?

13 JUROR TINA HOLLAND: No, sir.

14 THE COURT: Okay. Thank you.

15 Next potential witness, Sharon Bailey. Do any of
16 you know Sharon Bailey?

17 Okay. How about Patricia Halmon Sullivan? Do any
18 of you know her?

19 Doyle Simpson. Any of you know Mr. Simpson? If you
20 will stand any of you that do.

21 Is your number up, Number 2?

22 JUROR RUTHIE BOLES: No, it's not. I'm sorry.

23 THE COURT: That's all right.

24 Okay. Number 26, 99, 126, 155 and 146.

25 For those of you that know Mr. Simpson, would the
26 fact that he might be a witness or if he were to testify
27 would anything about his testimony influence you or
28 affect you in being a fair and impartial juror? Would
29 any of you view his testimony differently because you

1 know him and might not know somebody else that is a
2 witness in this case?

3 Okay. Thank you. If you will, be seated.

4 Okay. Edward Lee McChristian. Do --

5 Okay. One hundred four. Do you know Mr.
6 McChristian?

7 JUROR MARLENE VANDERLIP: No. I knew Jack
8 Matthews.

9 THE COURT: Oh, okay. You know Mr. Matthews.

10 JUROR MARLENE VANDERLIP: If he is from
11 Greenwood, yes, I do.

12 THE COURT: Okay. Would anything about you
13 knowing Mr. Matthews influence you or affect you in being
14 a fair and impartial juror?

15 JUROR MARLENE VANDERLIP: No.

16 THE COURT: Okay. Thank you.

17 And Edward Lee McChristian. Do any of you know Mr.
18 McChristian?

19 And Number 26. You know him.

20 JUROR LISA BRANCH: (Nodded.)

21 THE COURT: And would the fact that you know
22 him influence you or affect you in any way in being a
23 fair and impartial juror in this case?

24 JUROR LISA BRANCH: No, sir. No, sir.

25 THE COURT: Okay. Thank you.

26 And then this gentleman is now deceased. He will be
27 -- his testimony that was given under oath at a previous
28 proceeding will be offered into evidence, and it will be
29 read. But the guy's name was Charles Collins, and he

1 went by the nickname of Porky.

2 And did -- do any of you know who I'm talking about
3 there?

4 Okay. Number 13, 15 - y'all be seated when I call
5 your names - 26, 28, 52, 60, 64, 71, 85, 97, 99, 105,
6 126, 155 and 146.

7 For those of you that knew Mr. Porky, Mr. Porky
8 Collins during his lifetime, would the fact that you know
9 him affect you or be any influence at all on you in being
10 a fair and impartial juror in this case? And can you
11 just consider his testimony along with anybody else?

12 And I take it by your silence you can.

13 Next potential witness would be Beneva Henry. And I
14 think Miss Henry is now in advanced age and will have her
15 testimony presented by prior testimony where she was
16 under oath at a prior time. And she will not be actually
17 a live witness here. How many of you know Miss Henry, or
18 do any of you know her?

19 Number 31. Number 26. Number 92, 139 and 144.

20 Those of you that knew Miss Henry or know Miss
21 Henry, is there anything about knowing Miss Henry that
22 would influence you or affect you or in any way have some
23 power over you and influence you in being a fair and
24 impartial juror? Okay. I take it by your silence that
25 it would not be any influence or affect you at all.

26 Next potential witness is Roxanne Ballard. If you
27 know Miss Ballard, if you will, please stand. Okay.

28 Number 8, 13, 26, 28, 31, 32 - y'all can be seated as I
29 call your name - 36-A, 66, 79, 60, 85, 137, 91, 110, 155,

1 131, 99, 121, 123, 124, 105, 125, 126 and 146.

2 Of course, I think from what we gathered yesterday
3 during voir dire, that she is the daughter of Miss Tardy,
4 who was one of the murder victims in this case. And I
5 understand Miss Ballard will possibly be testifying as a
6 witness in this case.

7 Is there anything about the fact that -- those of
8 you that know her, is there anything about the fact that
9 she might be a witness in this case that it would
10 influence you or affect you in any way in being a fair
11 and impartial juror in this case?

12 For those of you that do know her, would you just
13 consider her testimony just as you would anybody else
14 that testifies in the case and not be influenced by that?

15 Okay. Thank you.

16 John Johnson is a potential witness. I know Mr.
17 Johnson was chief of police here in Winona and has worked
18 for the district attorney's office for a number of years
19 now.

20 If you know Mr. Johnson, if you will, stand. Okay.
21 Number 8, 11, 13, 15, 21, 26, 28, 31, 33, 36-A, 60, 64,
22 71, 72, 85, 99, 105, 110, 93, 117, 119, 121, 123, 126,
23 131, 134, 152 and 157.

24 Of those of you that have indicated that you know
25 Mr. Johnson, if Mr. Johnson was a witness in this case,
26 would the fact that -- the mere fact that you know him
27 influence you or affect you in any way in being a fair
28 and impartial juror in this case?

29 And I take it by your silence that it would not.

1 Mike McSparrin. M-c-S-p-a-r-r-i-n. Do any of you
2 know Mr. McSparrin?

3 I take it by your silence that you do not.

4 Horace Wayne Miller. Do any of you know Mr. Miller?
5 Okay. Number 15, 117 and 146. Of those -- and 104 and
6 126.

7 Those of you that know Mr. Miller, know who he is,
8 is there anything about the fact that you know him that
9 would influence you or affect you in being a fair and
10 impartial juror in this case where he would testify as a
11 witness?

12 I take it by your silence, it would not.

13 Essa Ruth Campbell. Do any of you know Miss
14 Campbell? Essa Ruth Campbell.

15 I take it by your silence none of you would know --

16 JUROR DIANNE CORDER: Is that the same as Essa?

17 THE COURT: It's E-s-s-a.

18 MR. EVANS: Essa Ruth.

19 JUROR DIANNE CORDER: I knew an Essa Ruth.

20 THE COURT: And would that influence you or
21 affect you in any way if she were a witness in this case?

22 JUROR DIANNE CORDER: No, sir.

23 THE COURT: Okay. Thank you.

24 Then Connie Moore. Do any of you know Connie Moore?

25 I take it by your silence you do not.

26 Mary Ella Flemming. Do any of you know Mary Ella
27 Fleming? Okay. Number 99 and 126. And Number 26 and
28 92. Is there anything about the fact that you would know
29 Mary Ella Fleming that would affect you or influence you

1 or cause you to believe her testimony over somebody you
2 did not know?

3 I take it by your silence that would not be the
4 situation.

5 Latarsha Blissett. Do any of you know Miss
6 Blissett? Okay. That's Number 99, 126 and 155. Those
7 of you that had indicated you do know her, is there
8 anything about the fact that you know her that would
9 influence you or affect you in any way in being a fair
10 and impartial juror?

11 And I take it that it would not.

12 Another potential witness is Harvey Christopher
13 Freelon. I believe he is an attorney. I think he is
14 originally from Grenada, but maybe is down in the Jackson
15 area now. Do any of you know Mr. Freelon?

16 Okay. Jerry Dale Bridges is a constable here in the
17 county. I would assume that most everybody would know
18 Mr. Bridges. Is there anything about the fact that -- if
19 you do know Mr. Bridges, is there anything about the fact
20 that you know him that would influence you or affect you
21 in any way in being a fair and impartial juror in this
22 case?

23 And I take it by your silence that that would not be
24 the case.

25 Does anybody know Randy Keenum? Randy Keenum.
26 Okay. Number 8, 11, 13, 26, 28, 36, 41, 80, 85, 99, 126
27 and 157. For those of you that have indicated that you
28 know Mr. Keenum, is there anything about the fact that
29 you know Mr. Keenum that would influence you or affect

1 you in any way in being a fair and impartial juror in
2 this case?

3 And I take it by your silence that none of you have
4 that situation.

5 Randy Stewart is also a potential witness in this
6 case. Do any of you know Mr. Stewart? If you do, if you
7 will, please stand. That will be Number 11, 26, 71, 110,
8 121, 125, 126, 155.

9 Those that know Mr. Stewart, if he were to testify
10 in this case, would the fact that he testifies influence
11 you or affect your ability to be fair and impartial or
12 cause you to view his testimony differently than that of
13 somebody you did not know?

14 Willie Golden. Do any of you know Willie Golden? I
15 take it by your -- okay. Number 92 knows Mr. Golden.
16 Number 70 does. Ladies, does the fact you know Mr.
17 Golden, would that influence you or affect you in any way
18 in being a fair and impartial juror?

19 I take it by your silence it would not.

20 Okay. Cathy Permenter. Do any of you know Miss
21 Permenter?

22 Brian Rigby. Okay. Number 11, 13, 15, 21.

23 What is your number?

24 JUROR JONATHAN GIBSON: Twenty-two.

25 THE COURT: Twenty-two. Seven. Twenty-six.
26 Twenty-eight. Number 5. Number 33, 36-A, 60, 79, 99,
27 110, 121, 126, 131, 134, 146, 155 and 157.

28 Those of you that indicated that you know Mr. Rigby,
29 is there anything about you knowing who he is that would

1 influence you or affect you in any way in being a fair
2 and impartial juror in this case?

3 I take it by your silence that none of you would
4 have that situation.

5 Also, Benny Rigby. And I suspect several of you
6 know him, because I know several of you mentioned his
7 name yesterday. If you know Mr. Rigby, if you would,
8 please stand. Okay. Number 2, 5, 8, 11, 13, 21, 26, 28,
9 33, 36-A, 45, 60, 66, 71, 79, 85, 91, 93, 97, 99, 105,
10 110, 117, 121, 126, 131, 134, 137, 157 and 146. And
11 Number 15. I'm sorry.

12 Those of you know that Benny Rigby, if he testified
13 in this case, would the fact that you know him and know
14 who he is, would that influence you or affect you in
15 being a fair and impartial juror or in any way cause you
16 to listen and believe his testimony over that of someone
17 that you did not know?

18 I take it by your silence none of you would have
19 that type situation.

20 Also, Billy Glover is a potential witness. Do any
21 of you know Billy Glover?

22 How about Sherita Baskin? Any of you know Miss
23 Baskin?

24 Priscilla Flowers. Okay. Number 2, Number 26, 92,
25 35, 99, 126, 107 and 155.

26 Those of you that know Miss Flowers, are there any
27 of you that know her who the mere fact that you would
28 know her would influence you or affect you in being fair
29 and impartial or in any way would cause you to believe

1 her testimony over somebody that you did not know?

2 I take it by your silence none of you would have
3 that situation.

4 Herman Bailey.

5 Number 40. And if Mr. Bailey testified, would that
6 influence you or affect you in being a fair and impartial
7 juror?

8 JUROR ANGELA COOLEY: No, sir.

9 THE COURT: Okay. Thank you.

10 Jerry Yates. Okay. Number 8, 11, 13, 15, 21, 26,
11 28, 36-A, 60, 64, 71, 93, 99, 105, 117, 121, 126, 155,
12 157 and 146.

13 Those of you that have indicated that you know Mr.
14 Yates, if you -- if he were to testify, would the mere
15 fact that you know him, would that influence you or
16 affect you in any way in being a fair and impartial juror
17 in this case?

18 And I take it by your silence that would not be the
19 situation.

20 Also, Archie Flowers, Lola Flowers and Archie
21 Flowers, Jr. If you know any one of those three, if you
22 will, please stand at this time.

23 And Number 2, which one of those do you know?

24 JUROR RUTHIE BOLES: All of them.

25 THE COURT: All three of them.

26 Okay. You can be seated.

27 And Number 35. Which one of them do you know? All
28 three?

29 JUROR MOSES NEWMAN: (Nodded.)

1 THE COURT: And let's see. Number 36. Which
2 one of them do you know?

3 JUROR JAMES BIBBS: All of them.

4 THE COURT: All of them.

5 Number 71.

6 PATRICIA HAYNES: Archie.

7 THE COURT: Archie, Sr.

8 PATRICIA HAYNES: Senior.

9 THE COURT: Okay. And 80. Number 80.

10 JUROR JOYCE BUTTS: Archie and Lola.

11 THE COURT: Archie, Sr.

12 JUROR JOYCE BUTTS: Yes, sir.

13 THE COURT: Okay. And Number 85.

14 JUROR MARK CARWILE: I know Archie, Jr. I know
15 his dad when I see him.

16 THE COURT: Okay. Eighty-eight.

17 JUROR DOROTHY TURNER: I know Mr. Archie, Sr.

18 THE COURT: Ma'am.

19 JUROR DOROTHY TURNER: I know Mr. Archie also.

20 THE COURT: Archie, Sr.

21 JUROR DOROTHY TURNER: Senior. Yes, sir.

22 THE COURT: Okay. And do you know his wife or
23 Archie, Jr.?

24 JUROR DOROTHY TURNER: I, I know of his wife.
25 I don't know her personally.

26 THE COURT: Okay. And Number 92.

27 JUROR KATHERINE LANE: Know all of them.

28 THE COURT: Okay. Ninety-eight.

29 JUROR CARON HARRIS: All three of them.

1 THE COURT: Okay. And Number 99.
2 JUROR DIANNE CORDER: I know all three of them.
3 THE COURT: Okay. Number 107.
4 JUROR STACY BLACK: All three.
5 THE COURT: One-ten.
6 JUROR CONNIE LEGG: Archie, Jr.
7 THE COURT: Okay. One-thirteen.
8 JUROR LORETTA BURT: Archie, Sr.
9 THE COURT: One-twenty-one.
10 JUROR BRUCE WELCH: Archie, Sr.
11 THE COURT: One-twenty-six.
12 JUROR LOUISE CAFFEY: All three.
13 THE COURT: One-thirty-three.
14 JUROR EULANDIA THOMPSON: Archie, Sr.
15 THE COURT: Okay. One-thirty-eight.
16 JUROR CHANNA TOWNSEND: Archie, Jr.
17 THE COURT: One-thirty-nine.
18 JUROR RUBY DUMAS: All three.
19 THE COURT: Number 144.
20 JUROR GEORGE COLLINS: All three.
21 THE COURT: Number 161.
22 JUROR JAMES WILLIAMS: All three.
23 THE COURT: And Number 146.
24 JUROR CONNER CAFFEY: Lola and Archie, Sr.
25 THE COURT: Okay. Those that have indicated
26 that you knew one or more of these individuals, is there
27 anything about the fact that you would know them that
28 would automatically cause you to believe their testimony
29 over somebody else that you didn't know or that would

1 cause you in any way not to be a fair and impartial juror
2 because of that?

3 The next potential witness would be Arthur Smith,
4 who I believe worked correctional facility. He did work
5 for Mississippi Department of Corrections previous to
6 that. Do any of you know Arthur Smith?

7 How about Henry Stanberry?

8 How about Nelson Forrest? Okay. Number 2, 15, 21,
9 26, 28, 31, 35, 36, 80, 92, 98, 99, 88, 110, 107, 126,
10 133, 155, 159, 138, 144 and 161.

11 Those of you that have indicated that you knew Mr.
12 Forrest, is there anything about Mr. Forrest's testimony
13 that would affect your ability to be a fair and impartial
14 juror?

15 One hundred seven, you know him too.

16 JUROR STACY BLACK: I'm his daughter.

17 THE COURT: Oh, okay. You are his daughter.
18 Okay. If your father were to testify in this case, would
19 that influence you or affect you in some way in being a
20 fair and impartial juror?

21 JUROR STACY BLACK: No.

22 THE COURT: And would you believe you needed to
23 listen to your father's testimony and go along with it
24 just strictly because that was your father?

25 JUROR STACY BLACK: No.

26 THE COURT: Okay. Thank you.

27 Miss Cooley.

28 JUROR ANGELA COOLEY: I have a question
29 concerning Arthur Smith. Is he formerly of Carrollton?

1 THE COURT: I'm not sure where he is. I know
2 he lived over that way. You know, he, he worked at --

3 JUROR ANGELA COOLEY: I know him.

4 THE COURT: -- Leflore County for the
5 Department of Corrections for several years, worked the
6 restitution center over there.

7 JUROR ANGELA COOLEY: I lost track of him. We
8 were in elementary.

9 THE COURT: Okay. Would the fact that you know
10 who he is, would that affect you or influence you in
11 being a fair juror in this case?

12 JUROR ANGELA COOLEY: No, sir.

13 THE COURT: Mr. Tompkins.

14 JUROR DANNY TOMPKINS: I met Arthur Smith one
15 time over there.

16 THE COURT: And would the fact that you know
17 him influence you at all?

18 JUROR DANNY TOMPKINS: No, sir.

19 THE COURT: Okay. Thank you.

20 And anyone else that knows Mr. Forrest, Nelson
21 Forrest? Okay.

22 Tarron Daniel. T-a-r-r-o-n Daniels. Any of you
23 know Mr. Daniels?

24 How about Kittery Jones?

25 Is that Jones or --

26 JUROR LOUISE CAFFEY: Daniels.

27 THE COURT: Okay. Number 126, 155.
28 Daniels.

29 JUROR SUZANNE BAILEY: (Nodded.)

1 THE COURT: And 1 -- I mean -- I'm sorry.
2 Number 45.

3 Those of you that have indicated that you know Mr.
4 Daniels, would that influence you or affect you in any
5 way in being a fair and impartial juror?

6 Okay. Kittery Jones. Do any of you -- okay.
7 Number 126, 155, 99, 107, 92, 45 and again, 126.

8 Those of you that know Kittery Jones, would the mere
9 fact that you know Kittery Jones affect you or influence
10 you in some way in being a fair and impartial juror or
11 would you tend to believe that testimony over somebody's
12 you did not know?

13 Okay. James Aiken. Any of you know James Aiken?

14 How about Jan Bailey? Any of you know Dr. Jan
15 Bailey? Okay. Number 5, 8, 11, 13, 111, 21, 22 - I got
16 your number, 111 - 26, 28, 32, 33, 36-A, 41, 45, 52, 60,
17 66, 71, 72, 79, 85, 93, 94, 97, 91, 99, 104, 110, 157,
18 155, 131, 105, 121, 123, 125, 126, 146, 152.

19 Those of you that know Dr. Bailey, is there anything
20 about the fact that you know Dr. Bailey that would
21 influence you or affect your ability to be fair and
22 impartial because you just automatically go along with
23 that testimony because you know Dr. Bailey?

24 And I take it by your silence none of you have that
25 situation.

26 Danny Fielder. Do any of you know Danny Fielder?
27 Number 8, 11, 13, 15, 21, 26, 41, 45, 60, 85, 66, 72,
28 117, 137, 91, 110, 131, 155, 157, 99, 105, 121, 125 and
29 126 and 152 and 146.

1 Those of you that know Mr. Fielder, is there
2 anything about the fact that you know him that would
3 influence you or affect you in any way in being a fair
4 and impartial juror in this case?

5 I take it by your silence that that would not have
6 any affect or influence.

7 Any of you know Robert Merrit? Robert Merrit.
8 Okay. Twenty-six. Twenty-eight. Ninety-nine.
9 Thirty-six-A. One-twenty-six. One-forty-six. And 98.

10 Would counsel approach just for a second?

11 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
12 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
13 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
14 PROSPECTIVE JURORS.)

15 THE COURT: The prosecutor mentioned yesterday
16 Juror 17 sleeping. I will note for the record that
17 Number 17 does have her eyes closed and looks like she is
18 nodding off to me. That was something that was brought
19 up yesterday. I said I would keep a close watch on it.

20 MRS. STEINER: Your Honor, I can't see all the
21 way back, but in the front row, Juror 10 appears to be
22 reading rather than attending to the Court's questions
23 about witnesses.

24 THE COURT: I will note that too.

25 Thank you.

26 (THE BENCH CONFERENCE WAS CONCLUDED.)

27 THE COURT: Kenyata Knight. Does anybody know
28 Kenyata Knight?

29 Jimmy Forrest. Jimmy Forrest. Okay. Number 2, 35,

1 36, 80, 92, 98, 122, 107, 133, 159 and 144.

2 Is there anything about those that know Mr. Forrest
3 that would influence you or affect you in any way in
4 being a fair and impartial juror?

5 I take it by your silence that would not be the
6 situation.

7 JUROR MOSES NEWMAN: He is my uncle.

8 THE COURT: Okay. What is your number again?

9 JUROR MOSES NEWMAN: (Held up number.)

10 THE COURT: Number 35. And Mr. Newman, if Mr.
11 Forrest were a witness in this case, would you feel you
12 had to go along with his testimony or give it greater
13 weight or credibility than somebody that you did not
14 know?

15 JUROR MOSES NEWMAN: He is my uncle. If I
16 didn't know, you know, somebody. He is...

17 THE COURT: So you feel like you would probably
18 tend to believe his testimony over somebody else because
19 of that relationship.

20 JUROR MOSES NEWMAN: Yes, sir.

21 THE COURT: Okay. Thank you.

22 Number 71, you know --

23 JUROR PATRICIA HAYNES: I know but I should
24 have told you awhile ago. Jerry Yates is my
25 ex-brother-in-law, but I have not been married to his
26 brother in 30 years.

27 THE COURT: Okay. And would that influence you
28 or affect you at all?

29 JUROR PATRICIA HAYNES: Absolutely not.

1 THE COURT: And I believe I neglected to bring
2 Robert Merritt. Robert Merritt. When I asked questions
3 a number of you spoke up knowing him, but I neglected to
4 ask the question a minute ago, because I moved on to
5 something else.

6 Do those of you that know Robert Merritt, would the
7 fact that you know him influence you or affect you in any
8 way in being a fair and impartial juror in this case?

9 I take it, it would not.

10 Okay. Captain Larry Smith, Winona Fire Department.
11 How many of you would know Captain Smith?

12 Okay. Number 15.

13 JUROR NANCY FLY: I have a question.

14 THE COURT: Okay.

15 JUROR NANCY FLY: Do they call him Smitty? I
16 might know him.

17 THE COURT: Okay. Number 15. And Number 28,
18 64, 99, 104, 126, 107, 155, 98 and 144. Of those of you
19 that know Mr. Smith, is there any one of you that the
20 fact that you know him that would influence you or affect
21 you in any way in being a fair and impartial juror in
22 this case?

23 I take it by your silence that that would not be a
24 factor in you being a fair juror.

25 Alphonses Alexander. Do any of you know Alphonses
26 Alexander? Number 2.

27 JUROR RUTHIE BOLES: Your Honor, I have a
28 question about this Kenyata Knight. Was she a Small
29 before marriage or something?

1 THE COURT: I'm not sure. Do you know?

2 MRS. STEINER: Yes, Your Honor.

3 THE COURT: Okay. That was a maiden name then.
4 Small.

5 JUROR RUTHIE BOLES: Okay. That is my niece.

6 THE COURT: And would the fact -- if she was a
7 witness, would that influence you or be a factor in you
8 being a fair juror in this case?

9 JUROR RUTHIE BOLES: It wouldn't have no
10 effect.

11 THE COURT: Okay. Thank you.

12 And back on to Alexander. Number 26. Number 99,
13 126, 155 and 94. Those of you that indicated you know
14 Alphonses Alexander, does any one of you that -- the fact
15 that you know who that is that would influence you or be
16 a factor at all in being a fair and impartial juror in
17 this case?

18 And I take it by your silence that, that would not
19 be the situation.

20 Crystal Gholston. Any of you know Crystal Gholston?
21 I take it by your silence you do not.

22 Lilly Hamilton. Any of you know Lilly Hamilton?
23 Number 26, 99, 123, 125, 126, 155 and 146.

24 Is there anything about the fact that you would know
25 Lilly Hamilton that would in any way influence you or be
26 a factor in you being a fair and impartial juror?

27 Okay. Elouise Daniels. Anybody know Elouise
28 Daniels? Twenty-six. Ninety-nine. One-twenty-six.
29 One-fifty-five. Of those of you that indicated you know

1 Elouise Daniels, is there anything about the mere fact
2 that you know who that is that would influence you or
3 affect you or be a factor in you being a fair and
4 impartial juror?

5 And finally, as to the witnesses, Mary Frances
6 Moore. Do any of you know Mary Frances Moore? And is
7 there anything -- okay. Number 13. Number 26. Number
8 147. Number 21.

9 Those of you that know Mary Frances Moore, is there
10 any one of you that the fact that you know who that is or
11 know them in some capacity, would that affect any of you
12 in being a fair and impartial juror? Or would any of you
13 believe that testimony over somebody's that you did not
14 know?

15 I take it by your silence that would not be the
16 situation.

17 Ladies and gentlemen, in this case Mr. Flowers is
18 charged with the crime of capital murder. In this type
19 phase -- I mean in this type trial, the State of
20 Mississippi is seeking the death penalty in this case.

21 The procedure works like this. A jury in a capital
22 murder case first decides the guilt or innocence of the
23 person that is on trial. If and only if they find that
24 person guilty does the second phase of the trial begin.

25 In the second phase of the trial, the jury makes a
26 determination about whether the death penalty should be
27 imposed. If the jury cannot make a determination that
28 the death penalty should be imposed, then the sentence
29 for capital murder is life in prison without parole.

1 So I want to know first of all, if there are any of
2 you that if you feel like the facts justified it and the
3 law allowed it, are there any of you that could not even
4 consider the fact that there was the death penalty, that
5 you could not consider the death penalty if this case got
6 to the second phase where you were having to make that
7 determination?

8 Is there any one of you that just absolutely could
9 not even consider the fact -- could not even consider
10 death penalty in the event that there was a conviction in
11 the first phase? Any of you have that type feeling?

12 And Miss Boles, are you saying that you just
13 absolutely under no circumstances could consider the
14 death penalty as a possible sentence?

15 JUROR RUTHIE BOLES: That is right, because I
16 don't have that authority to take somebody else's life.

17 THE COURT: Okay. I know you were sent a
18 questionnaire, and on it you had marked strongly favor
19 and could consider it. Did you just accidentally mark
20 the wrong thing on that questionnaire?

21 JUROR RUTHIE BOLES: Yes, sir.

22 THE COURT: You had marked it -- accidentally
23 marked it wrong.

24 JUROR RUTHIE BOLES: Yes.

25 THE COURT: And you could not consider the
26 death penalty in any fashion; is that correct?

27 JUROR RUTHIE BOLES: Right.

28 THE COURT: And Number 40. Miss, Miss Cooley.

29 JUROR ANGELA COOLEY: Yes, sir.

1 THE COURT: And are you advising the Court even
2 if the law allowed it and the facts justified it that you
3 just absolutely could not even consider in any way the
4 death penalty?

5 JUROR ANGELA COOLEY: Life sentence but not
6 death penalty.

7 THE COURT: You could not consider death
8 penalty at all.

9 JUROR ANGELA COOLEY: No, sir.

10 THE COURT: Number 71. Miss Haynes, are you
11 advising the Court that you just could not even consider
12 the fact -- could not consider that as a possible
13 sentence at all?

14 JUROR PATRICIA HAYNES: I struggled with it,
15 and I don't think I could.

16 THE COURT: Well, you know, have you got any
17 doubts about whether you could?

18 JUROR PATRICIA HAYNES: I really do have some
19 doubts.

20 THE COURT: I mean I think you marked on your
21 questionnaire that you are generally against and could
22 under no circumstances consider it and...

23 JUROR PATRICIA HAYNES: I struggled with it. I
24 don't think I could.

25 THE COURT: Okay. Okay. Number 80. Miss
26 Butts, you've, you've heard the question. Could you not
27 even consider that as a possible sentence, the death
28 penalty?

29 JUROR JOYCE BUTTS: No, sir.

1 THE COURT: Thank you.

2 Number 99. Miss Corder, are you advising that under
3 no circumstances, even if the law allowed it and the
4 facts justified it, that you could consider the death
5 penalty?

6 JUROR DIANNE CORDER: That's right. Could not.

7 THE COURT: Could not consider it at all.

8 JUROR DIANNE CORDER: That's right.

9 THE COURT: And Miss Purnell, if the facts
10 justified it and the law allowed it, could you consider
11 the death penalty?

12 JUROR LINDA PURNELL: No, sir.

13 THE COURT: Number 133. Miss Thompson, if the
14 facts justified it and the law allowed it, could you
15 consider the imposition of the death penalty?

16 JUROR EULANDIA THOMPSON: No, sir, I could not.

17 THE COURT: Thank you.

18 And Number 138. Mr. Townsend. I'm sorry. I was
19 looking at the wrong list. Miss Townsend, if the facts
20 justified it and the law allowed it, could you consider
21 the death penalty?

22 JUROR CHANNA TOWNSEND: No, sir.

23 THE COURT: And Miss Dumas, if the facts
24 justified it and the law allowed it, could you consider
25 the death penalty?

26 JUROR RUBY DUMAS: No, sir.

27 THE COURT: And Number 159. Mr. Haslett, if
28 the facts justified it and the law allowed it, could you
29 consider the imposition of the death penalty?

1 JUROR KENDRICK HASLETT: No, sir I could not.

2 THE COURT: I want to ask another question kind
3 of -- is there any one of you that would not -- well,
4 again, if, if the jury chose not to impose the death
5 penalty, then the sentence would be life without parole.

6 Is there any one of you on the panel that would just
7 automatically think the death penalty should be imposed
8 and would automatically view it as the death penalty and
9 automatically impose the death penalty in a sentencing
10 phase if you were on a jury?

11 So, then each of you are assuring me then that life
12 without parole is a possibility that could be considered.
13 Are each of you saying that to me?

14 Because I think I had a couple -- let me try to see.
15 I think there was a couple of questionnaires that I was
16 not quite certain on that had indicated maybe that you
17 could not consider life without parole.

18 Okay. I see one of the individuals that I had made
19 a note out has already been excused, and the others may
20 have been as well.

21 MR. EVANS: I think I had several still on
22 here, Your Honor.

23 THE COURT: Okay. Dorothy Turner. I, I think
24 on your questionnaire you had -- Number 88. I believe
25 you had marked on your questionnaire that you could not
26 consider life without parole as a sentencing option. Did
27 you mean to mark that, or was that a mistake?

28 JUROR DOROTHY TURNER: I, I -- when I was
29 marking, I really wasn't thinking about it, you know.

1 Sometimes we get in situations where we just mark. I
2 marked because I figured I had to have something marked
3 on there.

4 THE COURT: But --

5 JUROR DOROTHY TURNER: I am like the rest of
6 them. I can't consider the death penalty.

7 THE COURT: Are you saying under no
8 circumstances could you consider the death penalty?

9 JUROR DOROTHY TURNER: I couldn't. I could
10 not.

11 THE COURT: Okay. Thank you.

12 MR. DEGRUY: Your Honor, may we approach?

13 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
14 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
15 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
16 PROSPECTIVE JURORS.)

17 MR. DEGRUY: I have a few marked on the
18 questionnaire. Number 21.

19 THE COURT: I am going to -- you talking about
20 that didn't speak up today that marked something
21 different. I am going to go through those.

22 MRS. STEINER: Your Honor, while we are at the
23 bench, I noticed that Juror Number 7 is reading during
24 much of the Court's voir dire and 21 has nodded off. I
25 don't know if should stop and let them come back or what.
26 But 21 is also nodding off.

27 THE COURT: Is 21 the one sitting second row,
28 first person?

29 MRS. STEINER: No. She is in the first row,

1 red, red shirt, a red t-shirt, blue. She is actually
2 sitting next to the jury that, that --

3 THE COURT: I had noticed the person on the
4 second row. The person on the second row is, is nodding
5 off, has been asleep, in fact. Well, I don't know if we
6 are boring everybody.

7 MRS. STEINER: The person I was noting, she is
8 not nodding off now, is sitting next to the lady Mr.
9 Evans pointed out.

10 THE COURT: Okay. I had not noticed, but I
11 will keep a eye on that.

12 (THE BENCH CONFERENCE WAS CONCLUDED.)

13 THE COURT: One-eleven.

14 JUROR DEBORAH LASTER: If this is irrelevant, I
15 apologize, but I thought I should point out that I was
16 one of the six media witnesses for the state's first
17 execution by lethal injection in 2002.

18 THE COURT: And would that influence you or
19 affect you in being a fair juror in this case?

20 JUROR DEBORAH LASTER: No, sir.

21 THE COURT: Okay. I notice, Mr. Hudson, on
22 your, your form that you had filled out, the
23 questionnaire, you did not -- you did not answer at all
24 as to whether you could consider the death penalty as a
25 possible sentence. One hundred five. Where are you?

26 JUROR JAMIE HUDSON: Right here.

27 THE COURT: And so I, I don't know if you
28 overlooked that question or what the situation was. Can
29 you consider the death penalty as a sentencing option?

1 JUROR JAMIE HUDSON: Yes, sir.

2 THE COURT: And could you also consider that
3 life without parole would be imposed --

4 JUROR JAMIE HUDSON: Yes, sir.

5 THE COURT: -- if the death sentence wasn't?

6 JUROR JAMIE HUDSON: Yes, sir.

7 THE COURT: And you will keep an open mind on
8 those issues.

9 JUROR JAMIE HUDSON: Yes, sir.

10 THE COURT: And Sheila Clay, Number, Number
11 112, if you'll stand.

12 JUROR SHEILA CLAY: (Stood up.)

13 THE COURT: On, on your questionnaire you said
14 you could not consider life without parole as a
15 sentencing option. Did you -- but you did not speak up
16 to that today. So did you just overlook that on -- or
17 mark the wrong thing or what?

18 JUROR SHEILA CLAY: I might have overlooked it
19 when I put it on there.

20 THE COURT: So you could consider the
21 possibility of life without parole.

22 JUROR SHEILA CLAY: I could.

23 THE COURT: Okay. And you did not answer the
24 question at all about the death penalty when you
25 answered -- when you filled out your form. So if the
26 facts justified it and the law allowed it, could you
27 consider the imposition of the death penalty?

28 JUROR SHEILA CLAY: If the facts justified it,
29 I could.

1 THE COURT: And the law allowed it.

2 JUROR SHEILA CLAY: Yeah.

3 THE COURT: Okay. Thank you.

4 Okay. Number 114. Mr. Windham, I think on your
5 questionnaire you had mentioned you could not consider
6 life without parole. Did you intend to mark it that way?
7 You didn't speak up a few minutes ago. And do you
8 understand if the death penalty were not imposed, life
9 without parole would be the sentence?

10 JUROR GARY WINDHAM: Yes, sir. That would be
11 okay.

12 THE COURT: And so you would not just
13 automatically consider the death penalty, but would -- I
14 mean you wouldn't just as a matter of course think it
15 should be imposed.

16 JUROR GARY WINDHAM: Yes, I can go on that.

17 THE COURT: You could go along with life
18 without parole.

19 JUROR GARY WINDHAM: Yes, sir.

20 THE COURT: Okay. Thank you.

21 Okay. Number 154. Mr. Little, I believe on your
22 form you had said you could, could not consider life
23 without parole.

24 JUROR BENJAMAN LITTLE: Yes, sir. I stand in
25 favor of the death penalty, but I wouldn't hold up the
26 legal process.

27 THE COURT: So you would -- you are in favor of
28 the death penalty, but you would not automatically impose
29 the death penalty; is that correct?

1 JUROR BENJAMAN LITTLE: Not if it was going to
2 hold up the process, no, sir.

3 THE COURT: Well, you know, so you are saying
4 you would be fair and impartial and not just
5 automatically think it should be imposed.

6 JUROR BENJAMAN LITTLE: Yes, sir.

7 THE COURT: Okay. Thank you.

8 Let me go back. There was a couple of other things
9 that I...

10 And Miss McNeer, Number 21, I believe on your
11 questionnaire you had marked under no circumstances could
12 you consider life without parole. Was that an
13 intentional thing?

14 JUROR SHIRLEY MCNEER: It was not. I filled
15 that out hurriedly.

16 THE COURT: So you understand that if the death
17 penalty was not imposed, life without parole would be.

18 JUROR SHIRLEY MCNEER: Right.

19 THE COURT: And would you -- so you wouldn't
20 automatically just vote to impose the death penalty.

21 JUROR SHIRLEY MCNEER: No, sir. I would go
22 along with it.

23 THE COURT: Okay. And then -- let's see. And
24 Miss Everett, Number 75, if you will stand.

25 I noticed when you filled out your questionnaire
26 that you said you were generally against the death
27 penalty and could under no circumstances consider it. Is
28 that -- did you mean to fill it out that way or...

29 JUROR ROSEMARY EVERETTE: No, I didn't.

1 THE COURT: So if the facts allowed it and the
2 law justified it, could you consider the imposition of
3 the death penalty?

4 JUROR ROSEMARY EVERETTE: I could consider it.

5 THE COURT: Okay. I believe Mr. Newman, Number
6 35, I believe you had marked on your questionnaire that
7 under no circumstances could you consider the death
8 penalty. Is that still your view on the death penalty?
9 Or if the facts allowed it and the law justified it -- or
10 the facts justified it and the law allowed it, could you
11 consider the death penalty?

12 JUROR MOSES NEWMAN: You talking about on the
13 questionnaire?

14 THE COURT: Yes, sir.

15 JUROR MOSES NEWMAN: I must have misread it.

16 THE COURT: Because on the questionnaire you
17 had answered, I believe, that you could not consider it
18 under no circumstances. And so did you just write the
19 wrong mark on that?

20 JUROR MOSES NEWMAN: Yes, sir.

21 THE COURT: So are you saying if the facts
22 justified it and the law allowed it, you could consider
23 the death penalty.

24 JUROR MOSES NEWMAN: Yes, sir. I could. Like
25 I said, it would be --

26 (A JUROR STOOD UP AND STARTED WALKING TO THE DOOR OF THE
27 COURTROOM.)

28 THE COURT: Sir.

29 (THE JUROR LEFT THE COURTROOM.)

1 THE COURT: Ladies and gentlemen, I think
2 apparently y'all are needing a recess. So we will take a
3 15-minute break, and I will ask you not to discuss the
4 case or anyone during this recess.

5 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.
6 CARTER APPROACHED THE BENCH FOR THE FOLLOWING BENCH CONFERENCE
7 HAD OUTSIDE THE HEARING OF THE COURTROOM AUDIENCE.)

8 MR. CARTER: Are the attorneys from both sides
9 going to be allowed to do any general voir dire?

10 THE COURT: That was my -- that was my
11 thinking, you know, to allow general voir dire. Then if
12 there are certain ones that, based on answers that are
13 given, that need to be individually questioned, we will
14 do that. You know, but, you know, when -- I mean that is
15 the process that I have been looking at going to unless
16 y'all have some other idea.

17 MR. CARTER: I have one other question, Your
18 Honor. Are we allowed to, to split it between Andre and
19 I, or are we going to be required that either one lawyer
20 from either side do it? Or do you care? Does it matter
21 to you?

22 THE COURT: I was going to say I don't want any
23 repetitive questions, if y'all choose to have one
24 questioning the panel and then the other one. But I
25 don't want any repetitive questions to be asked.

26 I actually don't want y'all to repeat questions the
27 Court has asked unless there is a real necessity for it,
28 because I have voir dired longer than I ever have, and
29 I'm not through yet.

1 (THE BENCH CONFERENCE WAS CONCLUDED.)

2 (A RECESS WAS TAKEN.)

3 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
4 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT. THE
5 PROSPECTIVE JURORS WERE ALSO PRESENT. PROCEEDINGS WERE AS
6 FOLLOWS:)

7 THE COURT: Number 43. Mr. Sanders, and I
8 believe you had marked on your questionnaire that you
9 could not consider in any circumstance the death penalty.
10 Is that your view?

11 JUROR BEN SANDERS: Yes, sir.

12 THE COURT: Even if the law allowed it and the
13 facts justified it, you still could not consider it; is
14 that correct?

15 JUROR BEN SANDERS: (Nodded.)

16 THE COURT: Okay. Thank you.

17 MR. HILL: Your Honor, I didn't hear a
18 response.

19 THE COURT: He said yes, that he could not
20 consider it.

21 Then Mr. Collins. Number 144.

22 JUROR GEORGE COLLINS: Yes, sir.

23 THE COURT: On your questionnaire you did not
24 give any answer at all about the death penalty, when you
25 didn't mark anything on your questionnaire about that.
26 So if the facts justified it and the law allowed it,
27 could you consider the imposition of the death penalty?

28 JUROR GEORGE COLLINS: Yes, sir.

29 THE COURT: And did you just overlook that?

1 JUROR GEORGE COLLINS: I overlooked it.

2 THE COURT: Okay. Thank you.

3 Now, is there anyone else on this question
4 concerning the death penalty that has not been questioned
5 about it that any of the rest of you, even if the facts
6 allowed it and the law justified it you could not
7 consider it?

8 And again, is there anybody that would just
9 automatically consider the death penalty and think that
10 should be imposed if you got to the point where you were
11 in the sentencing phase?

12 Ladies and gentlemen, I want to know now if any of
13 you have a situation where you have got some religious
14 views, some philosophical view of life where you just do
15 not think that you should judge any person for any
16 reason, where you just can't sit in judgment of one of
17 your fellow mankind for any reason. Do any of you have
18 that view of life, that philosophical view or that
19 religious view?

20 I take it by your silence that none of you -- okay.
21 Number 122. And you're Mr. Hemphill.

22 JUROR BENJAMIN HEMPHILL: Yes, sir.

23 THE COURT: And are you advising the Court that
24 you just don't feel you could judge any person for any
25 reason?

26 JUROR BENJAMIN HEMPHILL: That's true.

27 THE COURT: Okay. Thank you.

28 Anyone else that has that view?

29 Now, ladies and gentlemen, the way the procedure

1 works is the State of Mississippi puts on their case.
2 Then the prosecution -- I mean then the defense puts on
3 their case. Sometimes there is additional evidence from
4 the prosecution.

5 But after both sides finally rest, the Court
6 instructs you on the law of the case. So you will
7 receive the law through written jury instructions from
8 the Court that will also be read to you. You are
9 required to follow the law as given to you by the Court.

10 You determine the facts in this case. You decide
11 the guilt or innocence of Mr. Flowers, but you do that
12 based on the rules of law as given to you by the Court.

13 So do I have anyone that just feels like they could
14 not follow and obey the instructions of the Court if you
15 thought the law ought to be different or if you thought
16 the Court was wrong on the law?

17 I take it that you are each assuring me that you
18 will, in fact, follow and obey the instructions of law as
19 given to you by the Court.

20 Ladies and gentlemen, I will now allow the State of
21 Mississippi to ask questions of you.

22 And, Mr. Evans or Mr. Hill, you may proceed.

23 MR. EVANS: Thank you, Your Honor.

24 Would you prefer us to use the podium or just stand
25 --

26 THE COURT: Whatever your preference is.

27 MR. EVANS: Good evening, ladies and gentlemen.

28 JURY PANEL: Good evening.

29 MR. EVANS: I'm Doug Evans, your district

1 attorney, for the ones of you that don't know me. This
2 is Clyde Hill, one of the assistant district attorneys.
3 And we'll be --

4 THE COURT: Okay. Mr. Evans, I think we've got
5 somebody --

6 Number 147.

7 JUROR JAMITA SMITH: I'm sorry. Could you
8 speak up? I can't hear you.

9 MR. EVANS: I'll try to.

10 I'm Doug Evans. For the ones of you that don't know
11 me, I'm your district attorney. This is Clyde Hill. He
12 is one of the assistant district attorneys.

13 It will be our job to prosecute this case. As
14 district attorney, that is the job of the district
15 attorney's office. I have seven counties that we handle
16 - Attala, Carroll, Choctaw, Grenada, Montgomery, Winston
17 and Webster Counties.

18 In all of those counties we represent the victims,
19 law enforcement and witnesses that testify where someone
20 has been injured or had something stolen or a case like
21 that. And it's our job to put on proof and prove to the
22 jury beyond a reasonable doubt who committed those
23 crimes. So that's what you will see us doing through the
24 trial.

25 This whole process of what we are doing is to try to
26 get a fair and impartial jury. What we want is a jury
27 that can say I will completely disregard anything I know
28 about anybody involved at this point - whether it be
29 families of the victims, whether it be the defendant and

1 his family or anyone else. What we are asking the jury
2 to do is come in and give both sides a fair trial, listen
3 to the evidence and base their decision on what they hear
4 in court.

5 Now, I know some of you have already said for
6 different reasons that you could not do that. But is
7 there anyone that has not answered that feels at this
8 point that they could not give both sides a fair trial?
9 If it is, please let us know.

10 Now, in any case you are going to have a different
11 group that could be good, qualified jurors than you may
12 in another case. That may be so because of
13 relationships, family relationships, friendships and
14 things like that.

15 And as y'all have seen during the voir dire, we have
16 lost a lot of the panel because people that knew one side
17 or the other. I know there are still some people here
18 that do have family relationships.

19 And is there anyone here -- I may go into a few of
20 them more specifically. But is there anyone here today
21 that feels because of their family relationships that
22 they could not be fair and impartial?

23 Now, there are only certain types of cases in this
24 state where the death penalty is an appropriate
25 punishment. There are several different categories of
26 crime that makes this case a possible death penalty case
27 is because it is a murder or multiple murders that were
28 committed during the course of a robbery.

29 Is there anyone here that feels that the death

1 penalty should not be even an option in this case, that
2 has not answered, just because of your personal beliefs
3 about what the law should be? Anyone at all?
4

5 JUROR ANGELA COOLEY: Will you restate that,
6 please?

7 MR. EVANS: Other than the ones that have
8 already said they don't believe in the death penalty, is
9 there anyone here that believes that just because this is
10 a murder during the commission of a robbery that it
11 shouldn't justify the death penalty?

12 We went through a long list, or the judge did, of
13 people that were related to the defendant, Curtis
14 Flowers, and his family. I've got a few that I want to
15 go just a little bit further with.

16 But before I do, is there anyone else here now after
17 hearing the different family relationships that now
18 realizes that they are related to him that did not
19 answer? Anyone at all.

20 Miss Rodgers, Number 52, y'all have changed up. I
21 have to find you now. I just had this with those notes
22 is why I want to bring it up at this point. You made a
23 comment about one of these attorneys had come to see you.
24 Was it in relationship to this case?

25 JUROR MELBA RODGERS: Yes.

26 MR. EVANS: When was that?

27 JUROR MELBA RODGERS: About two months ago.

28 MR. EVANS: Which attorney was it?

29 JUROR MELBA RODGERS: I don't know her name,

1 but she is sitting over there.

2 MR. EVANS: The lady sitting over here.

3 JUROR MELBA RODGERS: By the -- by the officer
4 right there.

5 MR. EVANS: Okay. Your Honor, may I get her
6 name for the record?

7 MRS. CURRY: Regina Curry.

8 MR. EVANS: Regina Curry. Did she discuss the
9 facts of the case with you?

10 JUROR MELBA RODGERS: Not of the case, no.

11 MR. EVANS: Okay. Did she come to see you
12 about you being on this jury panel?

13 JUROR MELBA RODGERS: No. No. No. That was
14 before I got summonsed.

15 MR. EVANS: Okay. Thank you.

16 THE COURT: Mr. Evans, Number 99 has her number
17 up.

18 MR. EVANS: Yes, ma'am.

19 JUROR DIANNE CORDER: I had a visit in the
20 summer of 2006 by a lady from Jackson with the Office of
21 Capital Defense.

22 MR. EVANS: Okay.

23 JUROR DIANNE CORDER: And her name was Regina
24 Curry. I had that in my mind.

25 MR. EVANS: All right. So you have also had
26 visits from her.

27 JUROR DIANNE CORDER: She visited me and asked
28 me questions. I also got a call before they -- I guess I
29 got a call before the third trial by someone else.

1 MR. EVANS: Okay. Thank you.

2 Okay. Mr. Ratliff. Number 56.

3 BY A JUROR: He is gone.

4 MR. EVANS: He is already gone. Gone through
5 so many levels. It is already hard to keep everybody
6 straight.

7 How about Juror Number 80? Miss Butts.

8 JUROR JOYCE BUTTS: Yes.

9 MR. EVANS: I notice in here that you know the
10 defendant's parents through church musical groups; is
11 that correct?

12 JUROR JOYCE BUTTS: Yes.

13 MR. EVANS: And how long have you known them?

14 JUROR JOYCE BUTTS: All of my adult life.

15 MR. EVANS: Okay. Which ones do you know?

16 JUROR JOYCE BUTTS: His parents.

17 MR. EVANS: Ma'am.

18 JUROR JOYCE BUTTS: His parents, Lola and
19 Archie, Sr.

20 MR. EVANS: Would you consider them friends?

21 JUROR JOYCE BUTTS: Sure.

22 MR. EVANS: Okay. Any of the other family
23 members?

24 JUROR JOYCE BUTTS: All his distant cousins.

25 MR. EVANS: Which ones would that be?

26 JUROR JOYCE BUTTS: Archie's brothers. I'm a
27 minister's wife, and I don't know all their names.

28 MR. EVANS: Okay. What I'm getting at -- and I
29 know this is something that a lot of people will be

1 asked, because it's kind of what we are trying to get to.
2 The fact that you are friends with his parents --

3 JUROR JOYCE BUTTS: Um-hum.

4 MR. EVANS: -- if you were asked to serve on
5 this jury, and you heard the evidence, and you were
6 trying to decide based on the evidence whether this
7 defendant was guilty or innocent, would the fact that you
8 are friends with his parents enter into that decision?

9 JUROR JOYCE BUTTS: No, sir.

10 MR. EVANS: So you could completely disregard
11 that and base your decision on the evidence that you
12 hear?

13 JUROR JOYCE BUTTS: Yes sir.

14 MR. EVANS: Thank you, ma'am.

15 Number 92. Miss Lane.

16 JUROR KATHERINE LANE: Yes, sir.

17 MR. EVANS: I think you said that you knew the
18 defendant's mother and father.

19 JUROR KATHERINE LANE: I sure do.

20 MR. EVANS: How long have you known them?

21 JUROR KATHERINE LANE: All my life.

22 MR. EVANS: Would you consider them friends?

23 JUROR KATHERINE LANE: No. They are just
24 associates of people I know in the community.

25 MR. EVANS: Just people you know.

26 JUROR KATHERINE LANE: In the community.

27 MR. EVANS: How, how do you know them?

28 JUROR KATHERINE LANE: I see them on their job.
29 I see them on the job. I see them out at Wal-Mart, just

1 in the community. I live here.

2 MR. EVANS: Okay. And I believe you live close
3 to a couple of his relatives; is that correct?

4 JUROR KATHERINE LANE: Neighbors. Well, Miss
5 Jones is a neighbor and has been a neighbor for 30-some
6 years. I have never been to her house. She has never
7 been to mine.

8 MR. EVANS: And what Jones is that?

9 JUROR KATHERINE LANE: Hazel.

10 MR. EVANS: Okay. And --

11 JUROR KATHERINE LANE: Mr. Campbell. I bought
12 property from him.

13 MR. EVANS: Which Campbell is that?

14 JUROR KATHERINE LANE: "F". "F" Campbell.

15 MR. EVANS: "F" Campbell.

16 JUROR KATHERINE LANE: That's all I know.

17 MR. EVANS: Okay. You've heard what I asked
18 Miss Butts. Is there anything about that, that would
19 enter into your decision at all?

20 JUROR KATHERINE LANE: No. No.

21 MR. EVANS: Do you know the defendant?

22 JUROR KATHERINE LANE: Not really. I mean I
23 know -- I see him there, but I really don't know him.

24 MR. EVANS: I believe at times he sang with the
25 group that his father is with. Have you ever heard him
26 or his father's group sing?

27 JUROR KATHERINE LANE: I have heard Archie's
28 group a few times when I went to concerts but...

29 MR. EVANS: Nothing about --

1 JUROR KATHERINE LANE: I heard five or six
2 other groups there too. So I just went to a group -- a
3 gospel concert.

4 MR. EVANS: So there is nothing about that that
5 would affect you in any way.

6 JUROR KATHERINE LANE: No. I like gospel.

7 MR. EVANS: Thank you.

8 Number 110. We were all writing so fast I was
9 trying to figure out for sure what I have got. You know
10 Archie, Jr. That is his brother.

11 JUROR CONNIE LEGG: Yes, sir.

12 MR. EVANS: He umpired some ball games with
13 your husband.

14 JUROR CONNIE LEGG: Right. Right. He is -- he
15 is out there every night just about. And my husband
16 works also for the park. And so we see him quite often.

17 MR. EVANS: Anything about that that would
18 affect you in this case?

19 JUROR CONNIE LEGG: No. No.

20 MR. EVANS: Thank you, ma'am.

21 One-thirty-five. Miss Robinson, you went to school
22 with the defendant; is that correct?

23 JUROR ANN ROBINSON: Um-hum.

24 MR. EVANS: What grades?

25 JUROR ANN ROBINSON: Probably first through
26 eleventh. I dropped out in eleventh.

27 MR. EVANS: Okay. So just about the whole
28 time, all the way through school.

29 JUROR ANN ROBINSON: (Nodded.)

1 MR. EVANS: And you know his Uncle Roscoe and
2 you know his father, Archie; is that correct?

3 JUROR ANN ROBINSON: I know of him. I don't
4 know him personally.

5 MR. EVANS: You don't know him personally. Is
6 there anything about that that would affect you at all in
7 this case?

8 JUROR ANN ROBINSON: (Shook head.)

9 MR. EVANS: All right. Thank you, ma'am.

10 Number 161. Mr. Williams, I think you worked with
11 his brother at Richardson Furniture; is that correct?

12 JUROR JAMES WILLIAMS: That's correct.

13 MR. EVANS: How long ago was that?

14 JUROR JAMES WILLIAMS: Probably 10, 15 years
15 ago.

16 MR. EVANS: Do you still have any association
17 with his brother?

18 JUROR JAMES WILLIAMS: No.

19 MR. EVANS: Is there anything about that that
20 would affect you in any way?

21 JUROR JAMES WILLIAMS: No.

22 MR. EVANS: Thank you, sir.

23 All right. The judge went into a little about ones
24 of you that may have had family members that have had
25 convictions before. Now, I am not going to go back into
26 all of that.

27 What I want to do, I'd like for the ones of you that
28 have had family members, relatives that have been
29 convicted of a violent offense - murder, aggravated

1 assault, rape, sexual battery, things like that - if
2 y'all would stand, please.

3 Number 2. Miss Boles, that is a nephew that was
4 convicted; is that correct?

5 JUROR RUTHIE BOLES: Right.

6 MR. EVANS: Where was that?

7 JUROR RUTHIE BOLES: In Montgomery County over
8 by J.J. Dobbs school.

9 MR. EVANS: Okay. And that was Michael
10 Forrest.

11 JUROR RUTHIE BOLES: Right.

12 MR. EVANS: Now, also, I know you have got a
13 son named Tracey Forrest; is that correct?

14 JUROR RUTHIE BOLES: Right.

15 MR. EVANS: I think he right now has a warrant
16 out for him.

17 JUROR RUTHIE BOLES: He does.

18 MR. EVANS: Do you know about that?

19 JUROR RUTHIE BOLES: No.

20 MR. EVANS: For burglary and uttering forgery.

21 JUROR RUTHIE BOLES: (Shook head.)

22 MR. EVANS: Okay. And if he does, that means
23 my office would be the one that had to prosecute him
24 also.

25 So considering that, is there any way that you would
26 hold that against the State in this case just because I
27 may have had to prosecute family members?

28 JUROR RUTHIE BOLES: No, I wouldn't.

29 MR. EVANS: Okay. Thank you, ma'am.

1 Number 35.

2 THE COURT: Wait a minute. You missed Number
3 13.

4 MR. EVANS: Thank you, Judge.

5 Number 13. Miss Holland.

6 JUROR TINA HOLLAND: Yes, sir.

7 MR. EVANS: That's a nephew convicted of
8 murder.

9 JUROR TINA HOLLAND: Yes, sir.

10 MR. EVANS: Where was that?

11 JUROR TINA HOLLAND: That was in Memphis.

12 MR. EVANS: So that would not be one that I had
13 prosecuted.

14 JUROR TINA HOLLAND: No.

15 MR. EVANS: How long ago was that?

16 JUROR TINA HOLLAND: Sixteen or 17 years ago.

17 MR. EVANS: Is there anything about the way it
18 was handled that would cause you to lean against the
19 prosecution in any way?

20 JUROR TINA HOLLAND: No, sir.

21 MR. EVANS: Thank you, ma'am.

22 And Number 35. Mr. Newman, your first cousin was
23 C.W. Forrest; is that correct?

24 JUROR MOSES NEWMAN: Yes, sir.

25 MR. EVANS: And I was the prosecutor that
26 prosecuted that case. It was aggravated assault in
27 Grenada County. Is there anything about that that would
28 cause you any either hard feelings or for you not to be
29 fair and impartial to the State in this case?

1 JUROR MOSES NEWMAN: No, sir.

2 MR. EVANS: Okay. And while, while I've got
3 you up here. You are also related to the defendant.

4 JUROR MOSES NEWMAN: Yes, sir.

5 MR. EVANS: And was that first cousin?

6 JUROR MOSES NEWMAN: You talking about to Mr.
7 Flowers?

8 MR. EVANS: Right.

9 JUROR MOSES NEWMAN: No, sir. His grandmother
10 and my great grandmother were sisters. And I don't know
11 how far -- I think that would make us like fourth --
12 would that make us fourth?

13 MR. EVANS: Okay. Jimmy Forrest was your
14 uncle.

15 JUROR MOSES NEWMAN: Yes.

16 MR. EVANS: What relationship are you to Mr.
17 Nelson Forrest?

18 JUROR MOSES NEWMAN: He is my grand-uncle's
19 son.

20 MR. EVANS: So you are also related to him
21 somewhere.

22 JUROR MOSES NEWMAN: Yes.

23 MR. EVANS: And I believe you said that because
24 of your relationship with Jimmy Forrest that you would
25 have to automatically believe his testimony over someone
26 else.

27 JUROR MOSES NEWMAN: Over a stranger. You
28 know, it would be my uncle, of course.

29 MR. EVANS: All right. And some things that we

1 have to ask, that have to go into because that is the
2 only way we can, can bring it up. But you were also
3 charged with a crime at Dollar General store at one time,
4 were you not?

5 JUROR MOSES NEWMAN: Me?

6 MR. EVANS: Yes, sir.

7 JUROR MOSES NEWMAN: Charged with?

8 MR. EVANS: Did you ever work at Dollar
9 General?

10 JUROR MOSES NEWMAN: Yes, I did work at Dollar
11 General.

12 MR. EVANS: Were you questioned about a crime
13 that was committed there?

14 JUROR MOSES NEWMAN: Yes, sir, I was, but I was
15 never charged.

16 MR. EVANS: Okay. And through that
17 investigation, you were questioned by my office; is that
18 correct?

19 JUROR MOSES NEWMAN: No, sir. I was only
20 questioned by -- what's --

21 MR. EVANS: Do you remember Mr. Robert Jennings
22 questioning you?

23 JUROR MOSES NEWMAN: I remember -- what's his
24 name? Dave. David. Yes. I remember -- I remember
25 talking to the sheriff's department. That is all I can
26 remember.

27 MR. EVANS: All right. Now, and on your
28 questionnaire you did state that you could not consider
29 the death penalty. And when the judge first asked for

1 the ones to stand up that could not consider the death
2 penalty, I believe you stood up and then you sat back
3 down; is that correct?

4 JUROR MOSES NEWMAN: On the death penalty, I
5 could support the death penalty. I don't remember
6 standing up and sitting back down.

7 MR. EVANS: Okay. But you are saying now that
8 if the facts justified it and the law authorized it, you,
9 yourself, could vote to impose the death penalty.

10 JUROR MOSES NEWMAN: Yes, sir.

11 MR. EVANS: All right. Thank you, sir.

12 Where were we?

13 Number 93. Mr. Matthews, that was a nephew charged
14 with murder.

15 JUROR HARLEY MATTHEWS: Yes, sir.

16 MR. EVANS: Where was that?

17 JUROR HARLEY MATTHEWS: Alabama.

18 MR. EVANS: Okay. So again, that would be one
19 that was out of my jurisdiction. But as far as the way
20 it was handled there, is there anything about that that
21 would cause you --

22 JUROR HARLEY MATTHEWS: I knew very little
23 about it.

24 MR. EVANS: All right. Thank you, sir.

25 Number 99. Miss Corder, and that was your aunt that
26 was charged.

27 JUROR DIANNE CORDER: My aunt was murdered by
28 her husband.

29 MR. EVANS: By her husband. I believe you said

1 that was 48 years ago.

2 JUROR DIANNE CORDER: Right.

3 MR. EVANS: Is there anything about that that
4 would cause you any difficulty?

5 JUROR DIANNE CORDER: (Shook head.)

6 MR. EVANS: Where did that occur?

7 JUROR DIANNE CORDER: In Eupora, Mississippi.
8 In Webster County.

9 MR. EVANS: Okay. All right. Thank you,
10 ma'am.

11 Number 112. Miss Clay, that is a brother-in-law on
12 a rape conviction and another brother-in-law on a
13 robbery; is that correct?

14 JUROR SHEILA CLAY: Um-hum.

15 MR. EVANS: Where did those occur?

16 JUROR SHEILA CLAY: The rape in Leflore County.
17 The burglary in Montgomery County.

18 MR. EVANS: All right. All right. And Filaray
19 (phonetic) Townsend was the one that was charged with
20 robbery. And that was a case that I prosecuted. Is
21 there anything about that --

22 JUROR SHEILA CLAY: (Shook head.)

23 MR. EVANS: -- that would cause you any
24 problem?

25 JUROR SHEILA CLAY: No, sir.

26 MR. EVANS: Thank you, ma'am.

27 Number 133. Miss Thompson.

28 JUROR EULANDIA THOMPSON: Yes, sir.

29 MR. EVANS: I think it was a nephew convicted

1 of robbery; is that correct?

2 JUROR EULANDIA THOMPSON: That's correct.

3 MR. EVANS: Where was that?

4 JUROR EULANDIA THOMPSON: I am thinking it was
5 either in Vaiden, Carroll County.

6 MR. EVANS: Who was it?

7 JUROR EULANDIA THOMPSON: Derrick Thompson.

8 MR. EVANS: Okay.

9 JUROR EULANDIA THOMPSON: Nephew by marriage.

10 MR. EVANS: Is there anything about that that
11 would cause you any difficulty in being fair and
12 impartial?

13 JUROR EULANDIA THOMPSON: No, sir.

14 MR. EVANS: All right. Thank you, ma'am.

15 And Number 147. Miss Smith.

16 JUROR JAMITA SMITH: It's not on my
17 questionnaire, because I just found out about it. My mom
18 told me about it yesterday.

19 MR. EVANS: All right. Who was it?

20 JUROR JAMITA SMITH: Well, my best friend, he
21 just got gunned down like, I knew my mom said it was,
22 like, Sunday night.

23 And my uncle shot my aunt when I was, like, maybe
24 three. And my cousin, Catherine Fullilove, she was
25 killed in a robbery, break-in in her house. And that was
26 when I was, like, ten.

27 MR. EVANS: All right. And your uncle was
28 charged with murder in relationship to your aunt; is that
29 correct?

1 JUROR JAMITA SMITH: No. He was charged with
2 attempted murder, because she didn't die.

3 MR. EVANS: Okay. Who was your best friend
4 that you are talking about?

5 JUROR JAMITA SMITH: His name is Robert.

6 MR. EVANS: Was he charged?

7 JUROR JAMITA SMITH: Who? My best friend? He
8 was gunned down. He is dead.

9 MR. EVANS: Okay. He was shot.

10 JUROR JAMITA SMITH: Yes. This just happened.

11 MR. EVANS: Okay. So the only one that you
12 have is your uncle; is that correct?

13 JUROR JAMITA SMITH: My uncle and my cousin.

14 MR. EVANS: Your cousin.

15 JUROR JAMITA SMITH: Um-hum.

16 MR. EVANS: What was your cousin convicted of?

17 JUROR JAMITA SMITH: Oh, I'm sorry. You said
18 the only that I had.

19 MR. EVANS: That was convicted.

20 JUROR JAMITA SMITH: That was convicted is my
21 uncle.

22 MR. EVANS: Okay. Your cousin was convicted
23 then; right?

24 JUROR JAMITA SMITH: My cousin -- my uncle was
25 convicted. It was my uncle. And my cousin was the
26 victim in a whole other case.

27 MR. EVANS: Okay. I got you. Thanks.

28 Yes, sir.

29 JUROR MOSES NEWMAN: It totally slipped my mind

1 and stuff. But when you said Dollar General, I thought
2 you meant when I worked at the Dollar General store.
3 That, that thing that you are talking about where I was
4 charged, I remember it now.

5 It did not happen at the Dollar General store.
6 That, that was dismissed because he attacked me with a
7 mop handle, and I was defending myself.

8 MR. EVANS: Okay. What I was asking about was
9 the embezzlement.

10 JUROR MOSES NEWMAN: No, I don't think any
11 charges.

12 MR. EVANS: All right. Thank you.

13 THE COURT: Mr. Evans, this lady is back up.

14 MR. EVANS: Yes, ma'am.

15 JUROR JAMITA SMITH: On the -- did you need the
16 name of my uncle?

17 MR. EVANS: Ma'am.

18 JUROR JAMITA SMITH: Did you need the name of
19 my uncle?

20 MR. EVANS: No, ma'am.

21 All right. A couple of you have answered that y'all
22 were related to the long list of possible witnesses that
23 the judge read out. Other than the ones of you that have
24 already said you were related, I think Number 35 and
25 Number 107, is there anyone else that was related to
26 those witnesses?

27 THE COURT: Number 119.

28 MR. EVANS: Yes, sir.

29 JUROR BOBBY ROBERTS: Bill Thornburg.

1 MR. EVANS: Okay. Is there anything about
2 being related to Bill Thornburg that would affect you in
3 this case?

4 JUROR BOBBY ROBERTS: No, sir.

5 MR. EVANS: Thank you, sir.

6 THE COURT: Mr. Evans, you got this lady.

7 MR. EVANS: Yes, ma'am.

8 JUROR JAMITA SMITH: Johnny Hargrove.

9 MR. EVANS: You are related to Johnny Hargrove.
10 I believe you said that yesterday.

11 JUROR JAMITA SMITH: Okay. I'm sorry.

12 MR. EVANS: That's okay. Thank you. It would
13 be better to say it twice than miss it.

14 JUROR JAMITA SMITH: Yes, sir.

15 MR. EVANS: And Miss Black, Number 107, you are
16 related to the defendant; is that correct?

17 JUROR STACY BLACK: Yes.

18 MR. EVANS: And how did you say you were
19 related to him?

20 JUROR STACY BLACK: Third cousin.

21 MR. EVANS: And can you tell me a little about
22 what that relationship is?

23 JUROR STACY BLACK: I was young. I barely knew
24 him.

25 MR. EVANS: How well do you know his family?

26 JUROR STACY BLACK: I know them if I see them.
27 I speak to them.

28 MR. EVANS: All right.

29 JUROR STACY BLACK: I know them.

1 MR. EVANS: You are related to all of them,
2 aren't you?

3 JUROR STACY BLACK: Yes.

4 MR. EVANS: And your father is Nelson Forrest,
5 who I believe is his mother's brother.

6 JUROR STACY BLACK: No.

7 MR. EVANS: Is that right? What's the
8 connection, relationship?

9 JUROR STACY BLACK: With who?

10 MR. EVANS: Between your father and the
11 defendant's mother.

12 JUROR STACY BLACK: I think they are second
13 cousins. I'm not sure.

14 MR. EVANS: Now, as the judge said, it is
15 expected, the defense has rested, that they anticipate
16 calling your father in the sentencing phase of this
17 trial. We expect that he is going to be leaning toward
18 one type of sentence.

19 If he were to do that, with it being your father, do
20 you not think that might influence you?

21 JUROR STACY BLACK: No. He raised me to have
22 my own mind.

23 MR. EVANS: You are saying you could disregard
24 what he had to say, and you wouldn't -- if he didn't want
25 you to impose the death penalty in this case, you
26 wouldn't have any problem when you went back and faced
27 him explaining to him why you did that.

28 JUROR STACY BLACK: No. He told me not to get
29 married, but I did that.

1 MR. EVANS: Thank you.

2 I try to not go back over anything that the Court
3 has gone over. But I find that just about, I'd say the
4 vast majority of the times I do this, I usually have at
5 least one hand. And the reason is most folks don't think
6 about this until they are sitting in your position. That
7 was the question that the Court asked about any of you
8 that feel you should not judge someone.

9 And basically, it wouldn't matter if it was a
10 religious belief or personal belief or what it was.
11 There are folks, some in this room, that feel that they
12 don't have the right to judge anyone else. And it's fine
13 to have that belief, but it would not work with the
14 person being on the jury.

15 Because if we pick the jury and someone had that
16 belief, after going through all the evidence, they would
17 basically have to throw up their hands and say I'm sorry,
18 I just don't think it is right for me to judge someone
19 else. And they could not perform their duties.

20 So is there anyone else here today that feels that
21 they may even have a duty that they could not or should
22 not judge someone else?

23 As the judge told you, this is a death penalty case.
24 And in the second phase, we will be asking for the death
25 penalty in this case. I know a large number of you have
26 already answered that you do not believe in the death
27 penalty in any situation.

28 And right now I am asking about anybody other than
29 the ones that have already answered. Other than the ones

1 that have already responded to that, is there anyone else
2 here today that just does not believe in the death
3 penalty? Anyone at all?

4 All right. Out of the ones -- and I am going to try
5 to make this as fast as possible. Out of the ones that
6 I've got listed that have said that they do not believe
7 in the death penalty and could not consider it under any
8 circumstance, I've got Juror Number 2, Juror Number 40,
9 Juror Number 71, Juror Number 80, Juror Number 99, Juror
10 Number 100, Juror Number 133, Juror Number 138, Juror
11 Number 139, Juror Number 159 and Juror Number 88 and
12 Juror Number 43.

13 Out of all of those, is y'all's view -- if any of
14 y'all's view is different than this, let me know. If you
15 could not consider the death penalty under any
16 circumstances. Any of you have any different view than
17 that?

18 All right. Is there anyone else that falls into
19 that category?

20 All right. And I'm not sure -- we've covered so
21 much. I'm not sure if my notes covered all there is to
22 cover.

23 But on Juror Number 42 -- where is 42?

24 I'm showing that on your questionnaire you stated
25 that you were generally against the death penalty. Was
26 that a correct statement?

27 THE COURT: If you will, stand up, please.

28 JUROR TASHIA CUNNINGHAM: I overlooked it.

29 MR. EVANS: You overlooked it. Now you filled

1 it out.

2 JUROR TASHIA CUNNINGHAM: I filled it out.

3 MR. EVANS: You just filled out the wrong
4 thing.

5 JUROR TASHIA CUNNINGHAM: Yes, sir.

6 MR. EVANS: So you are telling me that you do
7 believe in the death penalty.

8 JUROR TASHIA CUNNINGHAM: Yes, sir.

9 MR. EVANS: And if the facts justified it, you
10 could, in fact, vote for the death penalty.

11 JUROR TASHIA CUNNINGHAM: Yes, sir.

12 MR. EVANS: All right. Thank you, ma'am.

13 I also had Number 92. Miss Lane, I had on your
14 questionnaire that you were generally against the death
15 penalty.

16 JUROR KATHRINE LANE: If the circumstances
17 require the death penalty, then that is what the
18 circumstances require.

19 MR. EVANS: But if the facts justified it in a
20 case and the law said that it was proper, could you
21 impose the death penalty?

22 JUROR KATHRINE LANE: If the evidence showed it
23 was necessary, yes.

24 MR. EVANS: All right. Thank you, ma'am.

25 As the Court's told you, the burden of proof is
26 always on the State of Mississippi. We have to go
27 forward, and we have to put our case on to prove the
28 defendant is guilty beyond a reasonable doubt.

29 And the burden of proof is always the same. It

1 doesn't matter if it is a grand larceny case or if it's a
2 capital murder case. Because this is a capital murder
3 case, is there anyone here today that would hold us to
4 any higher burden of proof than that?

5 I know I've heard folks before say that they
6 couldn't be a fair and impartial juror because if they
7 didn't see somebody commit the crime, they couldn't vote
8 guilty. Is there anyone here today that could not look
9 at the evidence and, as the instruction says, be
10 reasonable and make a decision about whether or not a
11 defendant was guilty?

12 We expect in this case that there will be testimony
13 to prove what gun was used in the murders and where it
14 came from and how it got into the defendant's hands. But
15 we do not have the gun. We will have an expert to
16 testify.

17 But is there anyone here today that, even with all
18 of that evidence, would feel that well, if you don't have
19 the murder weapon, it doesn't matter what else you've
20 got, I couldn't vote guilty? Anyone at all?

21 A capital murder trial is unique because it is in
22 two phases. The jury that's picked will first sit in the
23 box and hear evidence and see evidence and hear testimony
24 about the guilt or innocence only. And in that phase the
25 Court will instruct you that you are not to even consider
26 what the proper penalty should be.

27 Can each of you tell us at that point that you would
28 follow the Court's instruction, you would only look at
29 guilt or innocence and wait until the Court tells you

1 it's the proper time to look at what the verdict should
2 be? Is there anyone that cannot do that?

3 All right. That phase we normally call the guilt or
4 innocence phase. In that phase, if the jury convicts the
5 defendant, Curtis Flowers, then we go into a second phase
6 to determine what penalty is appropriate.

7 In that phase both sides may or may not put on
8 additional evidence. There are different things that
9 will enter into it, and that will be a decision of both
10 sides. But once that is over, then the jury will be able
11 to determine what the appropriate punishment should be.

12 There will be certain factors that the Court can
13 consider. Some of them are called aggravating factors.
14 They are things that would justify the death penalty
15 being imposed. There are other factors that are called
16 mitigating factors that the jury may find, and they would
17 tend to show that a life sentence could be appropriate.
18 The Court will tell the jury how these must be weighed
19 and how the jury is to look at them.

20 Will each of you tell us that you will listen to the
21 Court's instructions, will read the instructions and will
22 follow those instructions if you are picked on the jury?
23 If you can do that, if you would, raise your hand and let
24 me know that you would. Thank you.

25 JUROR JAMITA SMITH: Excuse me, Mr. Evans.

26 MR. EVANS: Yes, ma'am.

27 JUROR JAMITA SMITH: I have another question.
28 I am sorry if I'm being a bother.

29 MR. EVANS: You're not bothering me.

1 JUROR JAMITA SMITH: But this is my first time.
2 From what I've seen, I know it's nothing like on t.v. or
3 whatever. But from my mock trial in high school, I was
4 under the impression that once the jury made their
5 decision, that it was up to the judge to determine it.

6 Is that what you are talking about?

7 MR. EVANS: No. In, in most crimes the judge
8 determines the punishment. In a capital murder case, the
9 jury does. It will be a jury decision. And the only way
10 in Mississippi that the death penalty can be returned is
11 for the jury to unanimously decide that is the proper
12 penalty. So it would be the jury that made that
13 determination.

14 Along with the burden of proof -- and this is very
15 appropriate. It should be this. The law in Mississippi
16 and most states - well, all states - is that at this
17 phase in a trial, before a jury has heard any testimony,
18 this defendant or any other defendant is presumed by law
19 to be innocent.

20 There is a very simple reason for that. We have not
21 put on any proof yet. So if you were asked to vote at
22 this point, since there has been no proof, you would have
23 to vote not guilty under your oath. Does everyone
24 understand that?

25 Now, that presumption only protects the defendant
26 until such time as we have proven our case. And once we
27 have proven our case to the jury beyond a reasonable
28 doubt, that presumption of innocence is no longer there
29 to protect the defendant. Do each of y'all understand

1 that? So it is only there until we have proven our case
2 beyond a reasonable doubt.

3 Number 41. Miss Henson.

4 JUROR JOYCE HENSON: Yes, sir.

5 MR. EVANS: I can't keep up with where
6 everybody is now.

7 I think the only relationship that you had with
8 knowing anything about the defendant is through your
9 husband and his work; is that correct?

10 JUROR JOYCE HENSON: That's correct.

11 MR. EVANS: Is there anything about that that
12 would affect you in this case?

13 JUROR JOYCE HENSON: No, sir.

14 MR. EVANS: Thank you, ma'am.

15 Number 144. Mr. Collins.

16 JUROR GEORGE COLLINS: Yes, sir.

17 MR. EVANS: You were parts manager at Auto
18 Zone.

19 JUROR GEORGE COLLINS: Yes, sir.

20 MR. EVANS: How long have you been there?

21 JUROR GEORGE COLLINS: Three and a half years.

22 MR. EVANS: Were you there any when the
23 defendant's brother worked there?

24 JUROR GEORGE COLLINS: He was there about two
25 months, and then he moved -- got transferred to Grenada.

26 MR. EVANS: Okay. So you worked with him for
27 about two months.

28 JUROR GEORGE COLLINS: Yes, sir.

29 MR. EVANS: Did y'all ever talk about the case?

1 JUROR GEORGE COLLINS: No, sir.

2 THE COURT: Is there anything about your
3 relationship with him that would cause you any difficulty
4 in this particular case?

5 JUROR GEORGE COLLINS: No, sir.

6 MR. EVANS: Thank you, sir.

7 At the time this occurred, the defendant was living
8 on McAdams Street, and I think his parents were living on
9 Cade, if I'm right, but in that neighborhood, McNutt,
10 Cade, Campbell. How many of y'all live or have lived in
11 that area?

12 Okay. Juror Number 147.

13 JUROR JAMITA SMITH: Yes, sir.

14 MR. EVANS: Do you live there now?

15 JUROR JAMITA SMITH: No, sir.

16 MR. EVANS: When did you live there?

17 JUROR JAMITA SMITH: When I first moved down
18 here in '03. Wait. Wait. In, like, probably end of
19 '05, beginning of '06.

20 MR. EVANS: And where, where did you live?

21 JUROR JAMITA SMITH: On -- with my grandmother.
22 18th & Cade Street.

23 MR. EVANS: I'm sorry.

24 JUROR JAMITA SMITH: 310 Cade Street.

25 MR. EVANS: So you were living down the street
26 from him; is that correct?

27 JUROR JAMITA SMITH: Well, I didn't know him.
28 But you said Cade Street. I stayed on Cade Street. I
29 spoke up.

1 MR. EVANS: Okay. Thanks.

2 And 107.

3 JUROR STACY BLACK: I used to live on Hazel
4 Circle, off Freeman Street.

5 MR. EVANS: Okay.

6 THE COURT: Would you repeat that? I didn't
7 hear you.

8 JUROR STACY BLACK: Hazel Circle. Off Freeman
9 Street.

10 MR. EVANS: And is that now or in the past?

11 JUROR STACY BLACK: Then and now.

12 MR. EVANS: Then and now.

13 Okay. And 153.

14 JUROR NORA BUTTS: I lived on Campbell Street.

15 MR. EVANS: Okay. And do you still live there?

16 JUROR NORA BUTTS: No.

17 MR. EVANS: When was that?

18 JUROR NORA BUTTS: Back in the early '90's.

19 MR. EVANS: Okay. Were you living there in

20 '96?

21 JUROR NORA BUTTS: No. No, I was not.

22 MR. EVANS: Okay. Thank you.

23 And 144.

24 JUROR GEORGE COLLINS: Campbell Street.

25 MR. EVANS: And is that now or in the past?

26 JUROR GEORGE COLLINS: I live there now.

27 MR. EVANS: How long have you lived there?

28 JUROR GEORGE COLLINS: About 20-some years.

29 MR. EVANS: How far do you live from the

1 Flowers?

2 JUROR GEORGE COLLINS: About two streets over.

3 MR. EVANS: Do you see them very often?

4 JUROR GEORGE COLLINS: No, sir.

5 MR. EVANS: Anything about that that would
6 affect you in any way?

7 JUROR GEORGE COLLINS: No, sir.

8 MR. EVANS: All right. Thanks.

9 One other thing, and I'm not going to go very much
10 into this, because I think the judge briefly touched on
11 it. You were asked questions about would you
12 automatically vote for any particular sentence. Do each
13 of you understand that it would only be after hearing the
14 evidence that you should make any determination of what
15 sentence would be appropriate? Does everybody understand
16 that? Thank you.

17 Your Honor, I'll tender the panel.

18 THE COURT: Ladies and gentlemen, I will give
19 you a recess before the defense questions you. So we
20 will take a 15-minute recess. If you will, be back in
21 here at 3:55 and in your same seats, in the same places.
22 And we will resume at that time.

23 Do not discuss the case with anyone or among
24 yourselves.

25 (A RECESS WAS TAKEN.)

26 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
27 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
28 PRESENT. PROCEEDINGS CONTINUED AS FOLLOWS:)

29 THE COURT: Mr. Carter, are you ready to

1 proceed?

2 MR. CARTER: Yes, sir.

3 I'll start with Mr. Newman.

4 JUROR MOSES NEWMAN: Yes, sir.

5 MR. CARTER: I believe you said you were kin to
6 Mr. Forrest. He is your uncle. I can tell that you have
7 a good impression of your uncle. That is a fine thing to
8 have. But if your uncle told you that it was raining
9 outside and you would look outside and see it is not
10 raining, you wouldn't believe him, would you?

11 JUROR MOSES NEWMAN: No. Are you talking about
12 Jimmy or Nelson?

13 MR. CARTER: Which one did you say was your
14 uncle?

15 JUROR MOSES NEWMAN: Jimmy Forrest.

16 MR. CARTER: Jimmy.

17 JUROR MOSES NEWMAN: Jimmy Forrest.

18 MR. CARTER: Jimmy. And Nelson is a relative
19 of yours.

20 JUROR MOSES NEWMAN: Yes, sir.

21 MR. CARTER: A cousin.

22 JUROR MOSES NEWMAN: Yes, sir. He is my
23 grandmother's brother's son.

24 MR. CARTER: Okay. If either were to
25 testify -- and I assume you have a good opinion of them.
26 But maybe I should tell you that is something that is
27 credible and believable, you would believe it; is that
28 correct?

29 JUROR MOSES NEWMAN: Yes, sir.

1 MR. CARTER: So you wouldn't be blindly
2 influenced to go along with something they said; is that
3 correct?

4 JUROR MOSES NEWMAN: That's correct.

5 MR. CARTER: So you can listen to their
6 testimony and give it whatever weight you think it
7 deserves based on using your own senses; is that correct?

8 JUROR MOSES NEWMAN: Yes, sir.

9 MR. CARTER: Thank you.

10 Now, do we have anyone who actually have discussed
11 this case with any of the victims' family? Has anyone
12 discussed the case with Miss Ballard, the Rigbys, the
13 Stewarts or the Goldens, not necessarily in that order,
14 but any of them?

15 Now, you have heard this thing about the burden of
16 proof being on, on the prosecution, and that is what the
17 law says it is. That is the way it is.

18 Now, you do understand that they have to do more
19 than just say something happened. You do understand they
20 have to prove it; right? And they have to prove it by
21 reliable, by trustworthy evidence.

22 And they can't just prove it just by supposition,
23 guesswork or conjecture, surmise. You understand that;
24 right? It has to be proven. It has to be something that
25 is believable. I just want to make sure you understand
26 that.

27 Now Mr. Flowers may testify, and he may not testify.
28 I don't know if the Court told you, but the defendant
29 never has to testify if the defendant chooses not to.

1 But the defendant can testify.

2 And the Court has told you that you cannot hold it
3 against Mr. Flowers if he decides not to testify. But I
4 am telling you - I know from my own experience, and this
5 is only human nature - that some people feel like if you
6 are accused of something, you have a responsibility to
7 say you didn't do it or defend yourself by being on the
8 witness stand and by explaining or saying you didn't do
9 it.

10 So I ask that question to find out is there anyone,
11 despite what the law is, that would require Mr. Flowers
12 to actually get on the witness stand and tell you his
13 side of the story? And if he doesn't do it, you would
14 hold it against him? I mean there is nothing wrong with
15 it if you feel that way.

16 The thing about voir dire, this funny word you keep
17 hearing, it means to speak the truth. And it doesn't
18 matter what your answer is. Nobody will hold it against
19 you. It may or may not mean that you shouldn't serve on
20 this jury, but it doesn't mean there is anything wrong
21 with your opinion. So if you feel that, there is nothing
22 wrong with that. I just want you to be honest about it
23 and tell us the truth.

24 So again, is there anyone here who thinks he should
25 testify? I'm not saying he won't. If you think he
26 should and if he doesn't, you would hold it against him?
27 We have no one that would hold it against him. That's
28 good.

29 Now, you hear people talk about lawyers. You hear

1 stuff about defense lawyers, and you hear about
2 prosecutors. And you hear about plaintiff lawyers and
3 defense lawyers.

4 Now, Mr. Evans and his staff -- and Mr. de Gruy and
5 Miss Steiner and I, we are defense attorneys. This is
6 what we choose to do. And it is something really that
7 historians are divided by. Which side is the right side?
8 Which side is the good side, the bad side?

9 I am telling you we just work on different sides.
10 There is no good side or bad side. I imagine you could
11 see good and bad in both.

12 Now, do we have anyone that thinks because Mr. Evans
13 prosecutes that he is the good side, and because we are
14 defending, we are the bad side and we are trying to
15 prevent justice from being done or something like that?
16 Does anybody believe that or feel that?

17 If you do, it is perfectly fine with me. It won't
18 hurt my feelings. I won't be mad or hurt, either or
19 anything. In fact, it would make me happy if you feel
20 that way. Anyone feels that?

21 Now, Mr. Evans had this job for a long time. And I,
22 I suppose that shows he is well thought of in town or
23 maybe lucky, I don't know. But let me ask you this: Do
24 you know anyone that works in Mr. Evans' office? He has
25 Clyde Hill here and a host of other prosecutors and some
26 staff people. Anyone has any friends or relatives that
27 work at Mr. Evans' office that you are aware of?

28 You do. Number 6. If you would, stand, sir, and
29 tell us.

1 JUROR GEORGE BROWN: William Blackmon.

2 MR. CARTER: William Blackmon. I believe that
3 is the young man over there in the corner.

4 JUROR GEORGE BROWN: Yes, sir.

5 MR. CARTER: Is he a relative yours?

6 JUROR GEORGE BROWN: No, sir.

7 MR. CARTER: He is just acquaintance. How do
8 you know him?

9 JUROR GEORGE BROWN: From the police
10 department, Grenada Police Department. I was his
11 sergeant at one time.

12 MR. CARTER: Used to be his boss.

13 JUROR GEORGE BROWN: I was his sergeant.

14 MR. CARTER: Sergeant.

15 JUROR GEORGE BROWN: His sergeant.

16 MR. CARTER: Who was superior in terms of
17 rank - you or him?

18 JUROR GEORGE BROWN: I am. I was.

19 MR. CARTER: Now, is there anything about that
20 relationship that would cause you to favor the
21 prosecution or Mr. Evans' side and not be fair to my
22 side?

23 JUROR GEORGE BROWN: No, sir.

24 MR. CARTER: So you could be fair to both sides
25 despite that relationship.

26 JUROR GEORGE BROWN: Yes, sir.

27 MR. CARTER: Anybody else knows anybody in Mr.
28 Evans' office?

29 Number 26.

1 JUROR LISA BRANCH: I know Miss Margie Scruggs
2 at church. I have taught her grandchildren before in
3 Sunday School.

4 MR. CARTER: Is she a personal friend of yours?

5 JUROR LISA BRANCH: I just know her.

6 MR. CARTER: Do you ever visit in each other's
7 homes?

8 JUROR LISA BRANCH: No, sir.

9 MR. CARTER: Is there anything about that
10 relationship that would cause you to be unfair to either
11 side?

12 JUROR LISA BRANCH: No, sir.

13 MR. CARTER: Okay. Number 28.

14 JUROR BRADFORD JOHNSON: John Johnson is a
15 second cousin of mine.

16 MR. CARTER: Is there anything about that
17 relationship that would cause you to be unfair to either
18 side?

19 JUROR BRADFORD JOHNSON: No, sir.

20 MR. CARTER: Or to favor his testimony?

21 JUROR BRADFORD JOHNSON: No, sir.

22 MR. CARTER: Would you favor his testimony
23 because of that?

24 JUROR BRADFORD JOHNSON: No, sir.

25 MR. CARTER: Okay. Number 13.

26 JUROR TINA HOLLAND: Miss Margie Scruggs lives
27 down the road from my mother.

28 MR. CARTER: She lives next to your mother.

29 JUROR TINA HOLLAND: Down the road. Not next

1 to her.

2 MR. CARTER: Do you consider her a friend?

3 JUROR TINA HOLLAND: Not really.

4 MR. CARTER: Do you ever visit her home or she
5 visit yours?

6 JUROR TINA HOLLAND: No.

7 MR. CARTER: Anything about the relationship
8 that would cause you to be unfair to either side?

9 JUROR TINA HOLLAND: No, sir.

10 MR. CARTER: Or favor Mr. Evans' side?

11 JUROR TINA HOLLAND: No, sir.

12 MR. CARTER: Okay. Number 45.

13 JUROR BURNADETTE BRASWELL: I used to work with
14 Margie Scruggs years ago.

15 MR. CARTER: I take it y'all were friends, are
16 friends.

17 JUROR BURNADETTE BRASWELL: Well, we just
18 worked together. We don't visit or anything like that.

19 MR. CARTER: Okay. You talk to her from time
20 to time.

21 JUROR BURNADETTE BRASWELL: I haven't seen her
22 in a long time. No, sir.

23 MR. CARTER: Okay. Is there anything about
24 that relationship that would cause you to favor the
25 prosecution's side?

26 JUROR BURNADETTE BRASWELL: No, sir.

27 MR. CARTER: Okay. Number 60.

28 JUROR SHIRLEY BLAKELY: I know Margie Scruggs.
29 We don't visit in each other's homes, but I consider her

1 a friend.

2 MR. CARTER: Okay. Would that friendship cause
3 you to favor the prosecution?

4 JUROR SHIRLEY BLAKELY: No.

5 MR. CARTER: Number 64.

6 JUROR DANNY GROVES: I know Mr. Johnson through
7 my job.

8 MR. CARTER: And have you known him for a
9 while?

10 JUROR DANNY GROVES: About ten years.

11 MR. CARTER: Ten years. Is he a friend?

12 JUROR DANNY GROVES: Just associates.

13 MR. CARTER: Do you hunt?

14 JUROR DANNY GROVES: No, sir.

15 MR. CARTER: Watch football together?

16 JUROR DANNY GROVES: Never been to his house.

17 MR. CARTER: Never been to his house. Is there
18 anything about that relationship that would cause you to
19 favor his testimony over anybody else's?

20 JUROR DANNY GROVES: No, sir.

21 MR. CARTER: Okay. Thank you.

22 Number 102.

23 JUROR MARTHA BOYLE: I know Mr. Hill from high
24 school many years ago.

25 MR. CARTER: Y'all were in the same high
26 school.

27 JUROR MARTHA BOYLE: Um-hum.

28 MR. CARTER: Were you in the same class?

29 JUROR MARTHA BOYLE: No. And I know the young

1 man in the corner over there from Holmes Community
2 College.

3 MR. CARTER: Mr. Blackmon, you know him.

4 JUROR MARTHA BOYLE: Yes.

5 MR. CARTER: Is there anything about --

6 JUROR MARTHA BOYLE: No. There is no --

7 MR. CARTER: Do you consider Mr. Hill a close,
8 personal friend?

9 JUROR MARTHA BOYLE: No.

10 MR. CARTER: Number 121.

11 JUROR BRUCE WELCH: Margie Scruggs is my
12 sister-in-law.

13 MR. CARTER: Margie is your sister-in-law.

14 JUROR BRUCE WELCH: Yes, sir.

15 MR. CARTER: Okay. You are real fond of her.

16 JUROR BRUCE WELCH: I am very fond of her. I
17 never heard her speak of the case other than when she had
18 to go to court. She doesn't talk about her job.

19 MR. CARTER: You never did discuss this case
20 with her.

21 JUROR BRUCE WELCH: No, sir.

22 MR. CARTER: And if you were a juror, would
23 that relationship cause you to favor Mr. Evans' office?

24 JUROR BRUCE WELCH: No, sir.

25 MR. CARTER: You could be fair to both sides.

26 JUROR BRUCE WELCH: Yes, sir.

27 MR. CARTER: Number 125.

28 JUROR JUDY JONES: Miss Margie Scruggs. I know
29 her.

1 MR. CARTER: How long have you known her?

2 JUROR JUDY JONES: I guess ten years.

3 MR. CARTER: Are you -- do you consider her a
4 personal friend, close, personal friend?

5 JUROR JUDY JONES: No.

6 MR. CARTER: You could be fair to both sides.

7 JUROR JUDY JONES: Yes.

8 MR. CARTER: You have no doubts.

9 JUROR JUDY JONES: No doubts.

10 MR. CARTER: Number 126.

11 JUROR LOUISE CAFFEY: I know Margie Scruggs. I
12 have known her most of my life.

13 MR. CARTER: You've known her most of your
14 life.

15 JUROR LOUISE CAFFEY: But we are not close
16 friends.

17 MR. CARTER: Is there anything about that
18 relationship that would cause you to favor Mr. Evans?

19 JUROR LOUISE CAFFEY: No.

20 MR. CARTER: Or the prosecution?

21 JUROR LOUISE CAFFEY: No, sir.

22 MR. CARTER: Okay. Number 110.

23 JUROR CONNIE LEGG: John Johnson is just a
24 friend. I, I went to school with his brothers and
25 sister.

26 MR. CARTER: You pretty much know the whole
27 family.

28 JUROR CONNIE LEGG: Yeah.

29 MR. CARTER: Are you close with any of them?

1 JUROR CONNIE LEGG: No.

2 MR. CARTER: You been in each other's homes or
3 belong to any organizations together?

4 JUROR CONNIE LEGG: No.

5 MR. CARTER: Is there anything about that
6 relationship that would cause you to be unfair to both
7 sides?

8 JUROR CONNIE LEGG: No.

9 MR. CARTER: Anything about that relationship
10 that would cause you to favor his testimony or Mr. Evans'
11 side?

12 JUROR CONNIE LEGG: No.

13 MR. CARTER: Number 157.

14 JUROR DANNY TOMPKINS: Yes. I am familiar with
15 most of the law enforcement people up there. Mr. Evans
16 was prosecutor in Grenada County when I was game warden
17 up there. He handled several cases I had.

18 I worked with Mr. Clyde Hill back in 1976 for a
19 short period of time. I know John Johnson, the highway
20 patrol and chief of police.

21 MR. CARTER: Is there anything about the law
22 enforcement contact or background that would cause you to
23 favor Mr. Evans' side or the prosecution?

24 JUROR DANNY TOMPKINS: No, sir.

25 MR. CARTER: Your Honor, could we have Mr.
26 Evans to tell the name of the other lawyers in his
27 office, other than Mike Howie?

28 There is at least three more, I think I remember
29 seeing you with, but I don't remember their names.

1 THE COURT: I can tell you. Susan Denley.
2 Clyde Hill. Mike Howie. Ryan Berry. And Adam Hopper.

3 MR. CARTER: Does anyone -- you can have a
4 seat, sir.

5 Anyone familiar with the lady and gentlemen that the
6 judge has named? Friends or relatives or knows them?

7 Now, I'm scared to ask this question, scared of the
8 answer. Does anyone that having had me talk to you for
9 10 or 15 minutes can say that I totally turn you off, you
10 don't like me? And I guess talking to you more would
11 only make you resent me more. You have some kind of
12 problem with the defense, and you don't feel you could be
13 fair to us for whatever reason?

14 Thank you. Appreciate that.

15 Now, do we have anyone who knows Mr. Flowers and who
16 has some kind or problem or has some kind of animosity
17 towards the Flowers that cause you to not be fair to
18 either side or to not be fair to Mr. Flowers, who I
19 represent?

20 Okay. Now, during the process of a trial police
21 officers get questioned a lot, and sometimes it's quite
22 spirited. And people have varying opinions of police
23 officers, and I think it is really good.

24 Okay. But I'm trying to find out if anyone has such
25 great affection and such high regards for police officers
26 and it's so high that if any of us started questioning
27 the police officers either quite seriously or quite
28 spiritedly you would get mad at us and hold it against
29 us.

1 I don't have anyone like that.

2 And do we have anyone that believes that just
3 because a police officer said something it is the gospel,
4 it is the truth and that police officers don't lie. They
5 are never mistaken. Don't make errors and that kind of
6 thing.

7 Thank you.

8 Now, do you understand that when you come to a trial
9 that your job is not to show up and render some kind of
10 service to the victim. Let me explain this to you. We
11 understand this is a horrible crime that happened in this
12 town and in a lot of towns and no decent person is happy
13 about that. And it is a sad occasion, and it makes
14 people sad and hurts people and cause great emotion.

15 But what I want you to understand that when you come
16 to the courtroom as a juror, your job is to -- if you are
17 selected, is to sit in the jury box and listen to
18 evidence and make a decision as to guilt or innocence
19 based on the evidence. It is not your job to effectuate
20 or carry out some community service.

21 Do you understand that, that your decision has to be
22 based on the facts that come from the witness stand and
23 nothing else? Everyone understand that?

24 JUROR ORMAN KNOX: Counselor, I just want to
25 get this straight. So what you are saying, it is not
26 your job to play vengeance for the victim.

27 MR. CARTER: Yes. That is not exactly what I
28 said, but I agree with that. Your job is to, if you are
29 selected, to come here and listen to the evidence that

1 comes from the witness stand and decide guilt or
2 innocence. And if we get to the second phase, decide
3 life or death. Not come in here and based on rumors or
4 events or something you heard in the community and try to
5 extract some kind of punishment.

6 Now, let's talk about something else that nobody
7 likes to talk about. Now, I am from Tougaloo College.
8 And we don't have a football team, but I wish we did.
9 Frankly, I wish we could play Millsaps or Bellhaven.
10 Choose their sides.

11 And if we had a football team, we would probably get
12 beat a lot, but I would be on my school's side
13 regardless. And even if Millsaps or Bellhaven had a
14 better team, you wouldn't catch me pulling for Millsaps
15 or Bellhaven. I would pull for my school.

16 You know why I would do it? Because I am biased. I
17 am prejudiced toward my school. I love my school. I am
18 not ashamed to say it. There is nothing wrong with that.
19 And we all have biases and prejudices. That is just the
20 way it is. You can't avoid it. You are socialized,
21 raised, born into a world where they exist.

22 Now, if for any reason you know you can't be fair --
23 I don't even have to know the reason. But if you know
24 you can't be fair, that this particular trial is not the
25 one you should be sitting in judgment of someone on
26 because of some prejudice you have, would you be honest
27 enough to admit it?

28 And I will allow you to come forth and just tell the
29 judge what that reason is if, if you want to tell it or

1 if the judge want to hear it. But if you know you can't
2 be fair, then would you -- it would be the right thing to
3 do to admit it and not serve on a jury where you couldn't
4 be fair. You could very easily not be able to serve on
5 this one but be able to serve on another one, because we
6 have feelings about certain cases.

7 Now, let me just tell you about one other thing. I
8 think I read an article that said we had a integrated, if
9 I'm not mistaken, prom in this town a year ago, a couple
10 of years ago or something like that. I must tell you,
11 I'm a little struck by that.

12 MR. EVANS: Your Honor, I object. There is
13 absolutely no reason or right for anyone to attempt to
14 try to bring race up in this trial or any other trial.
15 And that is improper.

16 MR. CARTER: I am not trying to bring up race,
17 Your Honor. I am not trying to accuse, accuse anyone.

18 THE COURT: Counsel approach.

19 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
20 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
21 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
22 JURY.)

23 THE COURT: Well, I don't know what you are
24 doing. I don't know -- I don't know what a integrated
25 prom in the town a few years ago has to do with anything.

26 MR. CARTER: Maybe that wasn't the right
27 prelude, Your Honor. But all I'm trying to do is ask if
28 anyone has some prejudice against Mr. Flowers that is so
29 severe or strong against that, I guess, amounts to

1 racism.

2 THE COURT: Well, if you want to ask that
3 question, I don't have any problem.

4 MR. CARTER: That's what I am trying to do. I
5 am trying to finesse it a little bit. I will just ask
6 straight out. Okay.

7 (THE BENCH CONFERENCE WAS CONCLUDED.)

8 THE COURT: I believe we have got a juror
9 holding a hand up about something. One-forty-seven.

10 JUROR JAMITA SMITH: I'm sorry.

11 MR. CARTER: That's okay.

12 JUROR JAMITA SMITH: I know I probably don't
13 have no say in this, but I believe that what you are
14 saying is true. Because yesterday -- I am not going to
15 say any names or point out any folks. But yesterday I
16 was around some folks that stood in this room that was
17 making some pretty racial -- bad racial remarks.

18 I had to leave up out the courtroom, because it made
19 me cry. Because how can you put God in the sentence and
20 then be in judgment of a person just by the pigmentation
21 of their skin?

22 MR. CARTER: Okay. Now, she kind of
23 mentioned -- that is where I was trying to go. As most
24 of you know, race is a hard thing to talk about. When
25 you bring it up you automatically make people mad and
26 defensive. But all I'm trying to find out -- I guess
27 I'll just be honest and not stop trying to finesse it.

28 All I'm trying to find out is whether anyone has a
29 problem with Mr. Flowers being a black male and

1 therefore -- or if you don't like black males, you hate
2 black males, and if you sat on the jury you would hold it
3 against Mr. Flowers. That is what I am trying to do.

4 I was trying to be kind and finesse it without just
5 coming straight out and saying it. So we have no one, I
6 suppose.

7 Okay. Okay. Now, we hear -- you heard some talk
8 about the death penalty. Now, the State of Mississippi
9 has decided that either life or death is appropriate for
10 capital murder.

11 Now, when I'm saying the State of Mississippi, I'm
12 not talking about Mr. Evans. I am talking about our
13 legislature. The folks that made laws. They have
14 decided that either life or death is appropriate for
15 capital murder, that a jury can decide which one he want
16 to give. The law requires you to be able to consider
17 both.

18 But we cannot tell you how to vote. It is not our
19 responsibility to tell you how to vote. It is your
20 decision whether you want to vote for life or death. But
21 both options exist - life without possibility of parole
22 or the death penalty.

23 In order -- and you hear us talk about it. There is
24 still a certain amount of confusion about it. Now, in
25 order for you to even get to that second phase, as Mr.
26 Evans told you, first phase, where you decide guilt or
27 innocence, that is all you are supposed to be deciding,
28 not the punishment.

29 If you find the defendant or Mr. Flowers or any

1 defendant in this situation guilty -- now, I am not
2 trying to tell you Mr. Flowers is guilty. But if you
3 find a defendant guilty, and you get to that second
4 phase, that mean you have decided that that person is
5 guilty of capital murder, that he intentionally,
6 knowingly killed somebody. That it wasn't an accident.
7 That it wasn't a mistake. And he wasn't insane, that he
8 knew exactly what he was doing. And he did what he
9 intended to do.

10 Now, if you found that to be the case and all of a
11 sudden you're in that second phase, who among you
12 believes that the death penalty is the appropriate
13 sentence? If you believe that, if you believe that a
14 person intentionally, knowingly and on purpose kills
15 somebody and it wasn't an accident, it wasn't a mistake,
16 the person not insane, he knew exactly what he --

17 MR. EVANS: Your Honor, I object, because I
18 don't think that is the proper question.

19 THE COURT: I'll sustain the objection in that
20 form.

21 MR. CARTER: Let me see if I can...

22 THE COURT: If you want to ask if they would
23 just automatically believe the death penalty should be
24 imposed, then you can ask it.

25 MR. CARTER: That is where I was headed, Your
26 Honor.

27 THE COURT: Okay. Maybe you should rephrase it
28 that way.

29 MR. CARTER: For that kind of murder, who among

1 you believes that the death penalty is automatic
2 punishment? Now, there is nothing wrong if you believe
3 it, because this process is about what you believe, not
4 what anybody else believes, not about what we want, not
5 what we think. It is about what you believe.

6 Who among you believe that for that kind of murder,
7 the death penalty is appropriate, the only punishment,
8 the only one punishment, the right punishment? If you
9 believe that, stand.

10 Thank you.

11 Now, you also heard Mr. Evans talk about
12 aggravation. And I'm not really sure if you knew exactly
13 what that means. But I'm sure you are familiar with the
14 word aggravation. We all are. And I hope I am not
15 causing you to be any more confused.

16 There is also something on the other side that is
17 called mitigation. Mr. Evans is going to be putting on
18 what is called aggravation - in other words, reasons why
19 he believes the defendant should get the death penalty if
20 we get to the second phase.

21 And we will be putting on what we call mitigation,
22 reasons why we believe you should vote for life without
23 possibility of parole. Now, that could be anything,
24 anything about his character, anything about his
25 background.

26 Now, invariably, if people will be honest, there are
27 people who believe that mitigation are excuses and don't
28 believe that background matters.

29 MR. EVANS: Again, I object. That is not the

1 proper way to go into that. And the question is can they
2 follow the Court's instructions on that.

3 MR. CARTER: Your Honor, that, that is not --

4 THE COURT: I'll sustain the objection. You
5 can rephrase the question, if you choose to do so.

6 MR. DEGRUY: Your Honor, may we approach?

7 THE COURT: You may.

8 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
9 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
10 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
11 PROSPECTIVE JURORS.)

12 MR. DEGRUY: This is voir dire. We have the
13 right to ask questions to explore the thoughts of the
14 jurors on the death penalty. We are not limited to
15 simply asking them if they are *Witherspoon*-excludable or
16 *Morgan* excludable.

17 We can find out to what degree they can, in fact,
18 consider mitigation. That is all he is trying to do. It
19 is proper to ask that, tell them we are not talking about
20 self-defense. We are not talking about insanity. Jurors
21 often believe --

22 THE COURT: Well, I was confused by the
23 question. And I guess I just assumed that if I'm
24 confused by it, the jury would be confused by it.

25 MR. HILL: Rephrase the form of the question.

26 THE COURT: And I do not have any problem with
27 him getting into these areas, because I agree. I think
28 they are appropriate. But I think rephrasing the
29 question would probably be more helpful to the jury

1 because, as I say, I was confused myself.

2 MR. CARTER: Okay.

3 (THE BENCH CONFERENCE WAS CONCLUDED.)

4 MR. CARTER: Ladies and gentlemen, would you
5 let me know if I am confusing you or you are not
6 following me? I am really trying hard to make sure that
7 you understand, even though I might be failing.

8 JUROR NANCY FLY: I was totally lost.

9 MR. CARTER: Okay.

10 JUROR NANCY FLY: Somewhere between aggravation
11 and -- I, I was lost.

12 MR. CARTER: Okay. Let's see if I can -- okay.

13 In the event that Mr. Flowers is found guilty -- and
14 we are not conceding any guilt. We are not going to say
15 you are going to find any guilt. But if you find he is
16 guilty, then we have to have like a second trial that Mr.
17 Evans talked about and like the judge eluded, I think.

18 The first trial, once again, is to decide guilt or
19 innocence. And if not found guilty, we go home. Nothing
20 else happens.

21 If he is found guilty, the trial doesn't end. We
22 have to go to like, like a second trial, another hearing.
23 At that other hearing Mr. Evans will either call other
24 witnesses -- he will likely call other witnesses, put
25 them on the witness stand. And they will give testimony,
26 set forth reasons why they believe the death penalty is
27 the appropriate sentence.

28 And when he finish doing that, our side, we get to
29 call witnesses. Well, first of all, as he puts his

1 witness on the witness stand, we get a chance to
2 cross-examine them, like we do in the first phase.

3 But after he rests during, like, the second trial,
4 the second hearing, we get to call some witnesses. We
5 put them on the witness stand. And they tell and set
6 forth reasons why they believe life without possibility
7 of parole is the appropriate punishment.

8 And once you hear from their side with the
9 aggravation; then you hear my side, which is mitigation.
10 Then you are given the law. And you go back, and you
11 deliberate, and you decide what sentence.

12 At the time I was interrupted I was talking about
13 mitigation. And what I'm trying to find out is to make
14 sure that everybody is open to mitigation, that you will
15 listen to both sides. You will listen to his
16 aggravation, okay, his witnesses he put on the witness
17 stand setting forth the aggravation. And then you will
18 listen to our witnesses that we put on the witness stand
19 to set forth what we call the mitigation.

20 And the law requires that you be open and listen to
21 both sides. And at the time I was interrupted, what I
22 was trying to ask and perhaps not very well is whether
23 you would be open to the mitigation and won't just
24 consider it some excuses if the law tells you that you
25 have to consider it.

26 Now, we know that the law can say one thing, and
27 people can do another thing if they choose to. So I'm
28 trying to find out is can you tell me that you will
29 follow the law. And if the law says you are supposed to

1 listen to mitigation and aggravation that you will
2 actually do that and you won't get there and decide you
3 want to do your own thing regardless of what the law
4 says.

5 Thank you.

6 One more, Your Honor. I think I am finished. I am
7 just checking.

8 THE COURT: Yes, sir.

9 MR. CARTER: Now, with respect to aggravation
10 and mitigation, one final thing. The, the Court is going
11 to tell us the extent to which you can consider it. And
12 can you assure me that you will do what the Court tells
13 you you are supposed to?

14 And so we had, I believe, at least 12 people to say
15 that they could never consider the death penalty. Now,
16 for those people, do you understand that consider simply
17 means give the idea some valid consideration and weight?
18 Nobody is telling you that you have to vote either way.
19 Vote for life or death - it's your decision how you want
20 to vote if you get selected.

21 Because of that, is the opinion given by the people
22 still the same? Has anyone changed or altered their
23 opinion in lieu of just hopefully getting a better
24 understanding of the process?

25 Could you stand Number 2, Number 40, Number 71,
26 Number 80, Number 99, Number 100, Number 133, 138, 139,
27 159 and 143?

28 With the understanding that no one can tell you how
29 to vote - and the State of Mississippi is satisfied

1 however you vote, life without possibility of parole or
2 death - is it still your opinion that you can't even
3 consider, you can't even deliberate on, you can't even
4 think on the possibility of death and that you will be
5 locked into, if selected, life without possibility of
6 parole? Is that what you are saying or are you -- or do
7 you alter your opinion on that in any way?

8 JUROR ANGELA COOLEY: May I restate something
9 to get a better understanding? Are you saying that it
10 can be considered as a process, not that we have to go in
11 that direction?

12 MR. CARTER: Right. You can consider it as a
13 possibility, as an option. You have two options - life
14 without possibility of parole or death.

15 JUROR ANGELA COOLEY: Okay. I can consider it
16 as a process.

17 MR. CARTER: As a possibility. Is that the
18 same thing? What you mean process?

19 JUROR ANGELA COOLEY: Just merely one or the
20 other. Just the process.

21 MR. CARTER: As one or the other.

22 JUROR ANGELA COOLEY: Right.

23 MR. CARTER: And could you -- could you look at
24 both options equally?

25 JUROR ANGELA COOLEY: No, sir.

26 MR. CARTER: Is that how everyone else feels
27 too?

28 Okay. Thank you.

29 Number 21. Number 21. Could you stand? I forgot

1 your name. Miss McNeer.

2 JUROR SHIRLEY MCNEER: Yes.

3 MR. CARTER: Now, you said earlier that Mr.
4 Evans -- I think you told us he married your brother's
5 widow.

6 JUROR SHIRLEY MCNEER: (Nodded.)

7 MR. CARTER: And raised your niece, I believe.

8 JUROR SHIRLEY MCNEER: That's correct.

9 MR. CARTER: Now, has that -- that hasn't made
10 you like him more than normal or dislike him. You, you
11 are pretty much neutral and can be fair to both sides or
12 has that -- what has that -- how has that affected you?

13 JUROR SHIRLEY MCNEER: Well, I mean it, it does
14 not have any bearing on what we are talking about here.
15 I can be fair and impartial. My relationship with him,
16 him having raised my niece has nothing to do with what we
17 are talking about going on here.

18 MR. CARTER: Okay. Have you visited in his
19 home?

20 JUROR SHIRLEY MCNEER: Sometimes I have, yes.

21 MR. CARTER: Okay. In recent years?

22 JUROR SHIRLEY MCNEER: Yes.

23 MR. CARTER: Has he been to yours?

24 JUROR SHIRLEY MCNEER: Sometimes.

25 MR. CARTER: Okay. This niece that we are
26 talking about, I take it she visits you quite a bit over
27 the --

28 JUROR SHIRLEY MCNEER: She is a grown woman
29 now.

1 MR. CARTER: She is a grown woman now.

2 JUROR SHIRLEY MCNEER: Yes.

3 MR. CARTER: During adolescence y'all visited
4 and had a lot of contact.

5 JUROR SHIRLEY MCNEER: I wouldn't say we were
6 just real, real close. No.

7 MR. CARTER: Okay. But irrespective of your
8 relationship, it's your contention you can be fair to
9 both sides and that relationship won't cause you to favor
10 either side.

11 JUROR SHIRLEY MCNEER: Absolutely. I can be
12 fair and impartial. Yes, sir.

13 MR. CARTER: Thank you.

14 Number 2.

15 JUROR RUTHIE BOLES: Back to this death penalty
16 and life without parole. I can make a decision on -- for
17 myself, you know, as you demonstrate a few minutes ago,
18 you know, can't nobody tell you how to vote or whatever.
19 But I can use my own judgment, you know, how I want to
20 go.

21 MR. CARTER: Okay. So are you saying that if
22 you were selected that you could go back and you could
23 consider the death penalty as an option and you could
24 consider life without possibility of parole as a option
25 and sentence?

26 JUROR RUTHIE BOLES: I can.

27 MR. CARTER: Okay. Thank you.

28 MR. EVANS: Your Honor, on these I don't think
29 that is the proper question, but will I be allowed to go

1 back into a couple of these if necessary?

2 THE COURT: There may be some questions that we
3 will ask outside the presence of everybody else.

4 MR. EVANS: Yes, sir.

5 MR. CARTER: Number 137. Can you stand,
6 please?

7 JUROR LINDA MALONE: (Stood up.)

8 MR. CARTER: I believe you said earlier that
9 you heard about the case from Miss Ballard; is that
10 correct?

11 JUROR LINDA MALONE: That's correct.

12 MR. CARTER: Okay. Miss Ballard is a personal
13 friend of yours.

14 JUROR LINDA MALONE: She is.

15 MR. CARTER: Okay. And how long have y'all
16 been friends?

17 JUROR LINDA MALONE: About five years.

18 MR. CARTER: Five years. Okay. And, and when
19 you say you heard about it or discussed it, I assume you
20 are talking about more than just being told that she lost
21 her parent. Is that fair to say?

22 JUROR LINDA MALONE: That she lost what?

23 MR. CARTER: Hold on a minute. Let me see if I
24 can talk about this without -- have y'all talked about it
25 more than once?

26 JUROR LINDA MALONE: Why don't you just let me
27 tell you? Would it be better?

28 MR. CARTER: Well, if the judge will --

29 THE COURT: I don't want you to get into any

1 discussion about what she said to you.

2 JUROR LINDA MALONE: Okay.

3 THE COURT: You can give us the context of when
4 she talked to you or something like that.

5 JUROR LINDA MALONE: It is not something you
6 discuss. I mean it's not a subject matter that you bring
7 up, per se. I mean it's not something that you ask or
8 talk about. It's not something you are comfortable
9 talking about. So we haven't discussed any details.

10 There was one conversation in about two sentences
11 that we discussed. It's not anything that we get into
12 any detail with at all. No.

13 THE COURT: And based on that conversation,
14 does that affect you in being a fair and impartial juror?

15 JUROR LINDA MALONE: No, sir.

16 THE COURT: Would you think about that
17 conversation with Miss Ballard or your friendship with
18 her or, or the fact that she, I'm sure, suffered grief by
19 the loss of her parent? Would, would that be a factor at
20 all?

21 JUROR LINDA MALONE: No, sir.

22 THE COURT: Okay. Thank you.

23 MR. CARTER: One moment, Your Honor. I think
24 I'm finished.

25 Thank you.

26 MR. DEGRUY: We have nothing else. We don't
27 need any additional voir dire.

28 THE COURT: If y'all will approach, Counsel.

29 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

1 CARTER AND THE DEFENDANT WERE PRESENT AT THE BENCH FOR THE
2 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
3 PROSPECTIVE JURORS.)

4 THE COURT: I think I'll send the jury out for
5 a minute. Then we will take up any others for cause.
6 And then I'll -- you know, so that some won't have to
7 come back tomorrow. And after everybody is gone, I'll
8 discuss with you the ones we might have additional
9 questions for.

10 MR. DEGRUY: Okay.

11 (THE BENCH CONFERENCE WAS CONCLUDED.)

12 THE COURT: Ladies and gentlemen, if you will,
13 step out of the courtroom for about ten minutes. I'm
14 going to take up a couple of matters with the lawyers
15 here. And so if you will, step out. We will have you
16 come back in in a few minutes.

17 (THE PROSPECTIVE JURORS LEFT THE COURTROOM.)

18 THE COURT: Okay. I think we've had several on
19 the death penalty question and under *Witherspoon* have
20 indicated they would not be able to sit in this case.

21 Now, and, of course, I know -- we all just heard
22 Miss Boles. I think Miss Boles has indicated that she
23 would consider that as an option. So for right now I
24 don't think it would be appropriate to have her to go for
25 cause. I think maybe she can be questioned individually
26 at some point about her views.

27 The next one I see then is Number 40, Miss Coolly.
28 Does either side object to her for cause?

29 MRS. STEINER: Your Honor, we would reiterate

1 here our motion made earlier, all motions with respect to
2 death qualifying the jury at all.

3 And we would invite the Court's attention that the
4 racially discriminatory application in this, there were
5 12 jurors that have been so - well, now 11 jurors - that
6 have been so identified, of whom two are -- identified
7 themselves on their juror questionnaires white and nine
8 have identified themselves as black or African American.

9 And that that is an actual -- the jury venire, as
10 have the prior ones in this county, has roughly
11 represented the population makeup of this county in the
12 range of 42 to 45 percent African American and the
13 disproportionally exclusion of African-American jurors by
14 virtue of *Witherspoon*.

15 We would urge that the history is there historically
16 to make a racial discrimination case and how it has
17 operated in the past. It is also operating in that
18 fashion now.

19 And under the totality of the circumstances, racial
20 exclusion by this process has been established and that
21 unlike the *Lockhart versus McCree* situation, this is a
22 situation where there is a exclusionary effect based on
23 race by virtue of death qualification, *Witherspooning* as
24 it were. And that under *Lockhart versus McCree* that
25 there should not be challenges for cause on the basis of
26 the responses with respect to *Witherspoon*. On the base
27 of racial discrimination, we would cite the Sixth and
28 Fourteenth Amendment to the United States Constitution to
29 that.

1 THE COURT: Response.

2 MR. EVANS: Sir.

3 THE COURT: I'll hear response.

4 MR. EVANS: Your Honor, we are strictly
5 following the law. I have not kept up with which ones --
6 I know there are numerous black and white jurors on the
7 questionnaires that did not believe in the death penalty.
8 A lot of them have already been struck for cause for
9 other reasons. But the number or who it is is just
10 depending on each individual jury.

11 And in this particular case, the ones in the
12 questionnaires that said they didn't believe in the death
13 penalty that have not already been struck for cause for
14 kinships or relationships or other things are the ones
15 that we are dealing with here. And they clearly have
16 stated under *Witherspoon* that they could not under any
17 circumstance consider the death penalty.

18 THE COURT: I heard arguments on motions a few
19 days ago. I am going to reaffirm those motions, and my
20 rulings on those motions. I don't think anything that
21 was brought out during voir dire was in any way, shape
22 form or fashion by anyone asking these questions for the
23 intent of causing more members of the black or
24 African-American race to be excused on this issue than
25 whites.

26 I do note for the record that there were more black
27 jurors than whites, by a good margin, nine, I believe, to
28 two, that are saying they can't consider the death
29 penalty. But I do not consider that there has been any

1 purposeful discrimination or any discrimination
2 whatsoever in the questioning process.

3 And I don't know if these -- if this is a
4 statistical anomaly or what the situation is. It may be
5 that some members of the African-American community are
6 just much more compassionate than some in the white
7 community.

8 I do not know what the reasoning behind it is, but I
9 do know that there has been no showing of any type
10 discrimination or discriminatory intent. And there,
11 also, I will note, are a number of African Americans left
12 on this jury panel even after this issue is considered.

13 So again, I'll overrule any motion and reaffirm the
14 motions heard on these issues pretrial.

15 And with that in mind, is there any objection --
16 with your objection on the other issue noted for the
17 record, is there any objection to Miss Cooley being
18 excused for cause?

19 MRS. STEINER: We agree that she answered the
20 *Witherspoon* question.

21 THE COURT: And Number 43.

22 MR. EVANS: State agrees.

23 THE COURT: Defense agree?

24 MR. DEGRUY: We agree.

25 MR. CARTER: Forty-three.

26 THE COURT: Right.

27 And 71. Miss Haynes. Do y'all agree on that one?

28 MR. EVANS: State agrees.

29 MR. DEGRUY: Yes, Your Honor.

1 THE COURT: And then Number 80, Miss Butts.
2 MR. EVANS: Yes, sir.
3 THE COURT: Y'all agree?
4 MR. DEGRUY: Yes, Your Honor.
5 THE COURT: And Miss Turner. Number 88.
6 State agree?
7 MR. EVANS: Yes, sir.
8 THE COURT: The defense.
9 MR. DEGRUY: Yes, sir.
10 THE COURT: And 99. Miss Corder. State agree?
11 MR. EVANS: Yes, sir.
12 THE COURT: And the defense.
13 MR. DEGRUY: Yes. Yes.
14 THE COURT: And then 100. Miss Purnell.
15 MR. EVANS: Yes, sir.
16 MR. DEGRUY: Yes, sir.
17 THE COURT: And then 133. Miss Thompson.
18 MR. EVANS: State agrees.
19 MR. DEGRUY: Yes, we agree.
20 THE COURT: One-thirty-eight. Townsend.
21 MR. EVANS: State agrees.
22 MR. DEGRUY: Defense agrees.
23 THE COURT: One-thirty-nine.
24 MR. EVANS: State agrees.
25 MR. DEGRUY: Defense agrees.
26 THE COURT: And Number 159. Mr. Haslett.
27 MR. EVANS: State agrees.
28 MR. DEGRUY: Defense agrees.
29 THE COURT: And those are all that I --

1 MR. HILL: Your Honor, we had -- State had two
2 more that we wanted to move to excuse for cause.

3 Number one is Juror 35. He is the juror that was
4 related to Jimmy Forrest. And when he was being
5 questioned about his relationship with him, that was his
6 uncle, about could he give -- could he treat his
7 testimony like the testimony of any other witness. And
8 he is the one that said that is my uncle, I would have to
9 give that a little bit more influence. That was on the
10 Court's questions.

11 THE COURT: Any response from the defense?

12 MRS. STEINER: Yes, Your Honor. The witness,
13 Mr. Forrest, is the only -- he has no knowledge of the --
14 he is not a fact witness. He has testified in the past
15 as, as a mitigation witness.

16 What Mr. Newman said was he might consider his
17 uncle's word over a stranger's. There is nothing to
18 indicate that what Mr. Jimmy Lee Forrest would be
19 testifying to would be contested in any way by any other
20 witnesses.

21 I don't even think Mr. Forrest was cross-examined by
22 the State with respect to the veracity of what he was
23 talking about or his truthfulness. And I think that is
24 the only thing Mr. Newman said. And it wasn't I would
25 believe him. And he also, in response to Mr. Carter's
26 questions, said that, you know, he wouldn't -- he
27 wouldn't believe him if it were patently obvious.

28 Hence, I don't think he is disqualified, no more
29 disqualified from serving as a juror than the numerous

1 jurors who in -- have expressed, you know, other kinds of
2 acquaintanceship with other witnesses. And I don't
3 believe he is at this point disqualified on the basis of
4 that response alone. It was very limited. It was his
5 uncle versus a stranger.

6 MR. EVANS: Your Honor, he specifically
7 answered to the Court and to the defense attorney that he
8 would believe his uncle over anyone he didn't know
9 automatically.

10 THE COURT: Well, I think --

11 MR. EVANS: This is a witness on whether or not
12 the defendant should get the death penalty. If he is up
13 here trying to keep him from getting the death penalty,
14 it is definitely a material witness.

15 THE COURT: I am going to allow him to be
16 questioned outside the presence of the other jurors. I
17 will reserve ruling on that one until he is heard
18 individually.

19 MR. EVANS: Your Honor, we also ask that Number
20 122 be struck for cause. He said that he could not judge
21 anyone.

22 THE COURT: I agree. I, I neglected to -- I
23 failed to see that one earlier. But I will allow that
24 one for cause, because he did say he could not
25 consider -- that he couldn't judge anybody for any
26 reason.

27 And while we are looking over ones for cause, does
28 the defense have any for cause?

29 I've, I've got a question about Number 117, Mr.

1 Bennett. He indicated he was a second cousin to Miss
2 Tardy, and he said he could be fair and impartial. But
3 I, I have got some doubt.

4 MR. EVANS: Your Honor, at this point in the
5 trial, there are a lot of people still on the jury panel
6 that are related to the defendant. So I think it's
7 premature.

8 THE COURT: I think Mr. Flowers has a fourth
9 cousin that's, that's on the panel. And fourth is a lot
10 further removed.

11 MR. CARTER: We trust the Court on this one,
12 Your Honor.

13 MRS. STEINER: Your Honor, I, I don't think the
14 -- we were not prepared to make all of the cause
15 challenges we would propose to make.

16 THE COURT: We will consider some of the others
17 tomorrow.

18 MR. EVANS: Your Honor, and this is more from
19 notes. Do you have on the death penalty issue in your
20 notes 160? I know on the questionnaire that, that juror
21 said that they were strongly against --

22 THE COURT: One-sixty has already been excused.

23 MR. EVANS: One-sixty has been excused.

24 THE COURT: Yes.

25 MR. EVANS: That is why I didn't have it
26 marked. Thank you.

27 THE COURT: Which jurors do we -- I think
28 Number 2 needs to be individually questioned. And I
29 think Number 35 does. And I will question the second

1 cousin individually, that being Number 117.

2 Which others do y'all feel would be necessary to
3 question individually?

4 MR. EVANS: Just a second. Let me flip through
5 here, Your Honor, to see if there are anymore.

6 MRS. STEINER: Excuse me, Your Honor, my chair
7 just died.

8 THE COURT: The wheel -- y'all see if you can
9 get the wheel fixed and maybe -- well, I don't see
10 another rolling chair right now.

11 BAILIFF MARILEE BROWNING: We can get one out
12 of the jury room.

13 THE COURT: Okay. If y'all will, find her
14 another chair.

15 MR. EVANS: Your Honor, while we are going
16 through this, I don't think I missed this. One of the
17 bailiffs brought to the Court's attention that Number 43
18 had an anxiety disorder.

19 THE COURT: That is one that has already been
20 excused on the death penalty question.

21 MR. EVANS: Okay.

22 MRS. STEINER: Your Honor, I, I would ask that
23 we ask, invite Juror 21, Mr. Evans' step-daughter's aunt
24 and 137.

25 THE COURT: Okay. Well, 21 on what issue?

26 MRS. STEINER: She is Mr. Evans'
27 step-daughter's aunt.

28 THE COURT: Okay.

29 (THE BAILIFF BROUGHT A CHAIR TO MRS. STEINER.)

1 MRS. STEINER: Thank you very much.

2 And question -- and Juror 137. We were somewhat
3 constrained in going into the kind of discussion it was.
4 And I think she should be met with individually to
5 determine whether or not this friendship might not be
6 disqualifying.

7 THE COURT: I agree on that one.

8 MR. HILL: Who was that?

9 THE COURT: Number 137. Miss Malone.

10 If I'm not mistaken, I believe she was excused for
11 cause in the November panel. So I think it would be
12 appropriate.

13 MRS. STEINER: I guess, Your Honor -- frankly,
14 Your Honor, I think on 21, I think that kind of close
15 kinship with a member of the prosecution's staff is a per
16 se exclusion. I can't imagine that it, it wouldn't
17 exclude you from most anything that had a conflict of
18 interest in it.

19 THE COURT: Well, I believe she said they are
20 not blood related at all.

21 MR. EVANS: That's right.

22 THE COURT: And Mr. Evans married her deceased
23 brother's widow. And so, you know, there is not any
24 kinship there.

25 MRS. STEINER: Well, then we would like to
26 discuss it further in chambers with them.

27 THE COURT: Are there any others that y'all
28 would like to...

29 MR. HILL: Can I have a minute?

1 MR. EVANS: Can you give us just a minute,
2 Judge?

3 THE COURT: Sure.

4 MR. CARTER: Your Honor.

5 THE COURT: Yes, sir.

6 MR. CARTER: Those people who -- the media
7 people who said that they heard something about the case,
8 will we be allowed to question those more specifically
9 about what, what they heard in individual voir dire?

10 THE COURT: I don't see any need to because
11 every one of them that has not been stricken for cause
12 has already said that it would not be a factor and they
13 would not consider things that they heard outside of the
14 courtroom.

15 And I think y'all acknowledged a couple of weeks ago
16 when we had some motions over here, that it was -- you
17 know, pretty much everybody on the panel was going to
18 have heard about the case. And actually, I was pleased
19 that there were a few people that did not -- had not
20 heard about the case.

21 But I, I don't see any real point in individually
22 questioning people that have already said that their
23 knowledge of the case would not affect them or be an
24 influence.

25 MR. EVANS: Your Honor, we would ask that we be
26 allowed to ask further questions of Juror Number 147,
27 specifically, in connection with the comments brought out
28 by defenses questioning of her comment about racial
29 comments that she had heard that made her leave out

1 crying.

2 THE COURT: I'll, I'll agree. I'll allow that
3 one to be questioned as well.

4 MR. CARTER: What number is she?

5 THE COURT: Number 147. Miss Smith.

6 MR. CARTER: One-forty-seven.

7 MR. DEGRUY: Your Honor, Juror Number 11 is -
8 let me make sure I have the right one, yeah - Mr. Pope.
9 He had -- he was a neighbor of Miss Tardy, a close friend
10 of the Rigbys, friends with the Stewarts.

11 And then when asked, when the question came up
12 today, about having heard anything about the case, he did
13 not indicate he had heard anything. I, I find that a
14 little hard to believe, and we would like to question him
15 individually.

16 THE COURT: Okay.

17 MR. CARTER: Your Honor, Number 41, she made a
18 comment that her husband was a kind of supervisor with
19 access to information that wasn't made public. I don't
20 know what it is she knows. Is it possible to question
21 her to find out --

22 THE COURT: I'll allow that one.

23 MR. CARTER: -- to the extent -- okay.

24 THE COURT: Any others from either side?

25 MR. EVANS: I don't think so, Your Honor. I
26 think that -- that's pretty much it.

27 THE COURT: Any others from the defense?

28 MRS. STEINER: I think we've got them all.
29 Everybody except the ones excused will be back in the

1 morning.

2 THE COURT: Well, what I'm -- what I'm
3 anticipating and my thinking is that we'll individually
4 question these jurors in the morning. And then I'll tell
5 everybody to be back at 10:30. And y'all will have
6 overnight to look at your notes.

7 And then we'll convene in the morning at 9:00 and
8 start going over the, you know, having the jury selection
9 process. And so y'all will have, you know, ample time,
10 both sides, to review the notes. That is what my intent
11 was. That is why I wanted to get rid of every -- I don't
12 say get rid of, but I wanted complete voir dire today, if
13 possible.

14 MRS. STEINER: I appreciate that, Judge. Could
15 you -- I've been -- not been taking systematic notes.
16 Could you recite the jurors that you are anticipating
17 talking to individually?

18 THE COURT: Number 2, 11, 21, 35, 41, 117, 137
19 and 147.

20 MRS. STEINER: Your Honor, the mother and son
21 relationship. I mean, the son got off a lovely one-liner
22 but I'm -- I -- they are far enough down numerically that
23 it is perfectly conceivable that both sides might have
24 exhausted their strikes by the time they were gotten to.
25 And I really think that perhaps the opportunity to talk
26 to each of them individually might be -- about whether --
27 about --

28 THE COURT: I think they both emphatically
29 stated that it was not going to be a factor at all in

1 them being -- you know, that they would absolutely judge
2 the case individually. And I didn't get the impression
3 there was any hesitation on either mother or son's part
4 to do anything other than judge it.

5 I mean we have got -- we have got a numerous number
6 of jurors that were related to somebody else the panel.
7 But I didn't have any of them that said anything other
8 than they would absolutely consider it independently of
9 any relative.

10 And I'll agree also, I don't know that we are even
11 going to get far enough to get either one of them.

12 If nothing else, I'm going to have the bailiffs
13 bring the jurors in. Then I'm going to excuse the ones
14 for cause first. And then I'll ask the others to stay
15 and then let most everybody else go.

16 (THE PROSPECTIVE JURORS RETURNED TO THE COURTROOM.)

17 THE COURT: Court will come to order. There
18 are several more from among your number I will be able to
19 excuse at this time.

20 So as your name is called, you are free to go, and
21 you are excused. Number 40, Angela Cooley. Number 43,
22 Ben Frank Sanders. Number 71, Patricia Ann Haynes.
23 Number 80, Joyce Ratliff Butts. Number 88, Dorothy
24 Turner. Number 99, Dianne Corder. Number 100, Linda
25 Purnell. Number 122, Benjamin Hemphill. Number 133,
26 Eulandia Thompson. Number 138, Channa Townsend. Number
27 139, Ruby Dumas. Number 159, Kendrick Haslett.

28 And ladies and gentlemen, I am going to -- there are
29 about -- let's see. One, two, three, four, five, six,

1 seven, eight of you that I am going to call your number
2 and ask you to stay around, because we want to ask you
3 additional questions outside the presence of everybody
4 else.

5 If your number is not called, you are free to go for
6 this day. And I'll ask you to be back at 10:30 in the
7 morning. At 10:30 in the morning it will be announced
8 who has been selected to serve on this jury.

9 So if you have not already prepared to stay, you
10 know, for a few days, then you might want to make sure to
11 have bags packed in case you are selected. I don't know
12 who will be selected and who will not be.

13 MRS. STEINER: Yes, Your Honor. May we
14 approach?

15 THE COURT: You may.

16 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
17 CARTER AND THE DEFENDANT APPROACHED THE BENCH FOR THE
18 FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE
19 PROSPECTIVE JURORS.)

20 MRS. STEINER: I apologize. I believe Venire
21 Man 157, there was some ambiguity that both the Court had
22 noted, and we did too about an answer. He is a friend of
23 the Rigbys.

24 THE COURT: I'll have him stay too just to make
25 sure or to get it clear for the record.

26 MRS. STEINER: Right. Thank you.

27 (THE BENCH CONFERENCE WAS CONCLUDED.)

28 THE COURT: So if -- as you -- if you will,
29 just those of you whose numbers I call, if you will

1 remain seated in the courtroom. Number 2. Number 11.
2 Number 21. Number 35. Number 41. Number 117. Number
3 137. Number 147 and 157.

4 If the remainder of you -- the remainder of you are
5 free to go. And again, please be back at 10:30 in the
6 morning.

7 Let me give you a caution though. Do not discuss
8 this case with anyone or among yourselves. You can't
9 talk to parties or witnesses about the case.

10 I do not want you to watch your -- any local news
11 broadcast about the case or listen to any radio broadcast
12 about it or read any newspaper articles about this case.

13 And again, if you will, come back at 10:30 in the
14 morning prepared to stay, because some of you will be
15 staying for a few days.

16 With that, ladies and gentlemen, those of you whose
17 number I did not call, you are free to go for the
18 evening.

19 And ladies and gentlemen, those of you that I've
20 asked to stay, if you will all just have a seat.

21 I guess, Miss Boles, we'll have you stay. You will
22 be the first one we will talk to.

23 If the remainder of you will step out and have a
24 seat in these chairs. We will be with you very shortly.
25 It is not going to take very long.

26 (ALL THE PROSPECTIVE JURORS, EXCEPT JUROR NUMBER 2,
27 RUTHIE BOLES, LEFT THE COURTROOM.)

28 THE COURT: Miss Boles, relax. We were -- we
29 were wanting to ask you a -- we were not really clear,

1 and we wanted to get very clear your position on the
2 death penalty.

3 I think I advised earlier when I was questioning you
4 that if the facts -- I, I was wanting to know if the
5 facts justified it and the law allowed it, if you could
6 consider the death penalty.

7 The situation is if the -- if it gets to that point,
8 if there is a guilty verdict, then the jury would
9 deliberate on the death penalty. And of course, if you
10 find that, that the death penalty should not be imposed,
11 then a life without parole sentence would be imposed by
12 the Court at that point.

13 But I want to know if you can consider the death
14 penalty as a sentencing option.

15 JUROR RUTHIE BOLES: No, I cannot.

16 THE COURT: So you can just absolutely not
17 consider it at all.

18 JUROR RUTHIE BOLES: (Shook head.)

19 THE COURT: And you've just got, I am sure some
20 religious views or beliefs about that; is that correct?

21 JUROR RUTHIE BOLES: No, it's not religious.

22 THE COURT: It is just a philosophy of life or
23 whatever that you just feel like the death penalty is not
24 something you should be deciding.

25 JUROR RUTHIE BOLES: If, if everything in favor
26 of the death penalty.

27 THE COURT: Well, the way it works is that I
28 will instruct you, if you were on the jury, there are
29 some aggravating factors that the Court would advise you

1 of to consider. And then there would be some mitigating
2 factors that the Court would tell you you could consider.

3 Aggravating would be factors why you should impose
4 the death penalty. Mitigating factors would be reasons
5 why you should not impose the death penalty. The State
6 would have to convince you that the aggravating factors
7 outweighed the mitigating factors before you --

8 MR. EVANS: The other way around, Your Honor.

9 THE COURT: Yeah, I'm sorry.

10 The -- anyway, if you found that the mitigating
11 factors were -- outweighed the aggravating factors, you
12 would not impose the death penalty. But my question is
13 just whether you could even get to the point where you
14 would even consider the death penalty.

15 JUROR RUTHIE BOLES: No.

16 THE COURT: So you could not consider it at
17 all.

18 JUROR RUTHIE BOLES: (Shook head.)

19 THE COURT: Okay. Does either side wish to ask
20 Miss Boles any questions?

21 MR. EVANS: No, sir.

22 MR. CARTER: I have one.

23 Miss Boles, do you understand that although you are
24 being asked if you can consider the death penalty, that
25 you are not restricted to just considering the death
26 penalty, that you can consider either life without
27 possibility of parole or the death penalty depending on
28 the aggravation and the mitigation?

29 So he asked you if you can consider the death

1 penalty. You are not being told that you have to vote
2 for the death penalty.

3 JUROR RUTHIE BOLES: I understand it.

4 MR. CARTER: Can you consider both equally?

5 JUROR RUTHIE BOLES: Right. Right. I can.

6 THE COURT: That is not what you just said
7 about two minutes ago; so you are not being consistent.
8 So I will -- you know, I'm kind of confused now. Are you
9 saying you will consider the death penalty?

10 JUROR RUTHIE BOLES: I will consider it.
11 Right.

12 THE COURT: Well, I mean are you saying you
13 will consider it but you are automatically not going to
14 impose it? Or are you just saying that you will look at
15 all the facts --

16 JUROR RUTHIE BOLES: At the facts.

17 THE COURT: -- and if the facts justify the
18 imposition of the death penalty, you could vote to impose
19 the death penalty?

20 JUROR RUTHIE BOLES: I would have to look at
21 the facts.

22 THE COURT: And if they justified it, you could
23 vote to impose the death penalty.

24 JUROR RUTHIE BOLES: Now you are confusing me.

25 THE COURT: Okay. If you looked at all the
26 facts that were presented in the sentencing phase, all
27 the aggravating factors and all the mitigating factors,
28 and after looking at those factors, you thought the death
29 penalty should be imposed, you are telling the Court you

1 could vote for the death penalty if you felt that was
2 appropriate sentence.

3 JUROR RUTHIE BOLES: Yes.

4 THE COURT: And, and you would not go in
5 automatically leaning one way or the other; is that
6 correct?

7 JUROR RUTHIE BOLES: No. Because I have my
8 own -- you know, can't nobody influence me into doing
9 something, you know, that I think is right.

10 THE COURT: Well, certainly. And we, we want
11 you to judge the case.

12 JUROR RUTHIE BOLES: According to the law, you
13 know.

14 THE COURT: Right. According to the law and
15 the facts of the case.

16 JUROR RUTHIE BOLES: Right.

17 THE COURT: And so you are not committed to
18 vote either way, but you will keep an open mind; is that
19 correct?

20 JUROR RUTHIE BOLES: I can vote either way.
21 Right.

22 THE COURT: Okay. State have any questions?

23 MR. EVANS: Yes, Your Honor.

24 All right. Miss Boles, is what you are telling us
25 that you can vote for the death penalty?

26 JUROR RUTHIE BOLES: Yes. Depending on, you
27 know, the facts. I hadn't been keeping up with this case
28 or anything like that and, you know, the evidence,
29 whatever or nothing like that. But like I say, I can

1 vote either way.

2 MR. EVANS: Well, about four or five different
3 times you said --

4 MR. CARTER: Your Honor, we object.

5 MR. EVANS: May I proceed, Your Honor?

6 THE COURT: I sustain the objection. You can
7 just ask. Don't get into any four or five times. You
8 just ask a direct question.

9 MR. EVANS: But you have stated that you don't
10 believe in the death penalty and you could under no
11 circumstances give the death penalty. What has changed
12 your mind here today?

13 JUROR RUTHIE BOLES: Like I say, I have to hear
14 the facts and whatever and, you know, make decision on my
15 own.

16 MR. EVANS: No further questions, Your Honor.

17 THE COURT: If you will, be back at 10:30 in
18 the morning, and we'll announce then who has been
19 selected for the jury. And thank you and have a good
20 evening.

21 JUROR RUTHIE BOLES: Thank you.

22 (JUROR RUTHIE BOLES LEFT THE COURTROOM.)

23 THE COURT: If y'all will, get James Edward
24 Pope.

25 MR. EVANS: Are we going to cover them as we
26 go, Your Honor, before another one comes in? Are we
27 going to cover each one before the other one comes in?

28 THE COURT: Well, if there is -- if there is
29 one -- I, I guess I'm not clear.

1 MR. EVANS: Wait one second.

2 Your Honor, again, we would ask that she be struck
3 for cause. I think she is definitely one in the category
4 that because of all her answers the Court can clearly say
5 that there is no way she can follow the law.

6 THE COURT: I think this --

7 MR. EVANS: Her integrity has definitely been
8 put in question.

9 THE COURT: I think this time she is
10 Witherspoon qualified. Certainly, I think there would be
11 plenty of grounds for peremptory challenges if the State
12 chooses to exercise one, but I don't think that is a
13 valid one for cause.

14 Mr. Pope.

15 (JUROR NUMBER 11, JAMES POPE, ENTERED THE COURTROOM.)

16 You can just have a seat on the front row there.

17 (JUROR JAMES POPE WAS SEATED.)

18 Mr. Pope, we -- in questioning yesterday I believe
19 you indicated that you were a neighbor of Miss Tardy's
20 and you knew Rigby from school and knew Mr. Stewart. And
21 I then I think today when we were asking questions, you
22 did not indicate that you had heard anything about the
23 case. So had you heard anything about it?

24 JUROR JAMES POPE: Everybody has heard. I
25 mean, you know, I hadn't denied nothing. I mean you've
26 heard everything. You just got to justify.

27 THE COURT: And having heard facts about the
28 case, will you lay any facts that you heard about the
29 case aside and base your decision only on the evidence

1 presented here in open court?

2 JUROR JAMES POPE: Yes, sir.

3 THE COURT: And would the fact that you were a
4 neighbor of the Tardys or knew the Rigbys or some of the
5 Stewarts, would that play a role or a factor at all in
6 you sitting as a fair and impartial judge -- juror?

7 JUROR JAMES POPE: No, sir.

8 THE COURT: Okay. Thank you.

9 Do y'all -- Mr. Evans, do you have any questions?

10 MR. EVANS: No questions.

11 MR. CARTER: Yes, sir. I have a couple of
12 them.

13 Mr. Pope, what you heard, have you formed an opinion
14 as to Mr. Flowers' guilt?

15 JUROR JAMES POPE: No.

16 MR. CARTER: And have you discussed this case
17 with Mr. Rigby?

18 JUROR JAMES POPE: With who?

19 MR. CARTER: With any of the Rigbys. Mr.
20 Rigby.

21 JUROR JAMES POPE: No.

22 MR. CARTER: No.

23 JUROR JAMES POPE: (Shook head.)

24 MR. CARTER: Now, when the judge asked for
25 those people to stand who has heard about the case, did
26 you stand? I'm trying to remember. Did you stand?

27 JUROR JAMES POPE: I don't think I did but, you
28 know, common knowledge. Everybody knew about that.

29 MR. CARTER: So you knew, but you didn't stand.

1 JUROR JAMES POPE: I did not stand. No, I did
2 not.

3 MR. CARTER: But you heard about it. You heard
4 about it how?

5 JUROR JAMES POPE: How did I hear about it?

6 MR. CARTER: Yes, sir.

7 JUROR JAMES POPE: It was all over the media,
8 all over town, I mean, you know.

9 MR. CARTER: So you heard about it from the
10 media. You heard about it through community gossip.

11 JUROR JAMES POPE: Gossip. Yeah. All over.

12 MR. CARTER: Did you hear about it from any
13 police officers?

14 JUROR JAMES POPE: Do what now?

15 MR. CARTER: Did you also hear about the case
16 or any facts about the case from any police officers or
17 law enforcement people?

18 JUROR JAMES POPE: No.

19 MR. CARTER: One moment.

20 No further questions.

21 THE COURT: Mr. Pope, you may go. If you will,
22 be back at 10:30 in the morning.

23 JUROR JAMES POPE: All right.

24 THE COURT: If y'all will, Miss McNeer. Number
25 21.

26 (JUROR JAMES POPE LEFT THE COURTROOM.)

27 (JUROR NUMBER 21, SHIRLEY MCNEER, ENTERED THE COURTROOM.)

28 THE COURT: If you will, just...

29 (JUROR SHIRLEY MCNEER WAS SEATED.)

1 Miss McNeer, we -- you had discussed out in front of
2 everyone, but we wanted to make sure again. Your -- Mr.
3 Evans, the prosecutor, is married to your brother's
4 widow.

5 JUROR SHIRLEY MCNEER: That's correct.

6 THE COURT: And then he had a niece -- I mean
7 he had a daughter with --

8 JUROR SHIRLEY MCNEER: My niece was three years
9 old --

10 THE COURT: Okay.

11 JUROR SHIRLEY MCNEER: -- when Doug and Patsy
12 married. He adopted her and raised her.

13 THE COURT: Okay. So do you have some kind of
14 association with Mr. Evans or through that relationship
15 that would influence or be a factor at all in being a
16 fair juror in this case?

17 JUROR SHIRLEY MCNEER: It would not affect my
18 being a fair juror, no.

19 THE COURT: So you'll base the decision on the
20 evidence presented and not on who's presenting the
21 evidence.

22 JUROR SHIRLEY MCNEER: That's correct. Yes,
23 sir. Yes, sir.

24 THE COURT: And I think you knew the Rigbys and
25 some of the other individuals that were the victims. And
26 would the fact that you know any of them influence you or
27 be a factor at all?

28 JUROR SHIRLEY MCNEER: No, sir, it wouldn't.

29 THE COURT: And do you have any reason at all

1 why you can't be a fair and impartial juror to both
2 sides?

3 JUROR SHIRLEY MCNEER: I do not have any reason
4 to not be able to be fair.

5 THE COURT: Okay. Does the defense,
6 prosecution have any questions?

7 MR. EVANS: No questions from the State.

8 MRS. STEINER: Miss McNeer.

9 JUROR SHIRLEY MCNEER: Yes, ma'am.

10 MRS. STEINER: I, I -- part of the reason we
11 are asking privately is because -- well, I have -- my, my
12 step-daughter's mother is my husband's ex-wife, but we
13 are actually very close friends as a consequence of
14 being -- co-parenting, even though sometimes ex's aren't
15 friends.

16 And I guess the question I would have is if you were
17 on this jury and you decided that a not guilty verdict
18 was appropriate or you may have decided to vote guilty
19 but even though your niece's dad is standing up there
20 asking this jury to impose a death sentence, your
21 reasoned moral judgment would be to impose a life
22 sentence, if, if either you voted not guilty or imposed a
23 life sentence if you'd found him guilty, the next time
24 you saw your niece and she said aunt, why, why did you
25 vote against my daddy, I mean could you really, honestly
26 feel completely comfortable if your niece said why did
27 you vote against my daddy?

28 JUROR SHIRLEY MCNEER: I don't think my niece
29 would do that. She is 37 years old, and I don't think it

1 would be discussed in that context within the family.
2 That is just not the way that they do.

3 MRS. STEINER: Have you discussed this case
4 with, with her?

5 JUROR SHIRLEY MCNEER: No.

6 MRS. STEINER: I mean, she is a grown woman
7 now. That's, that's -- I mean if it was just a little
8 girl, I wouldn't even ask you the question. But you have
9 not discussed this --

10 JUROR SHIRLEY MCNEER: No. We have not
11 discussed this. She -- no. In fact, I don't see her
12 that often anymore. I have two children. She lives in
13 Webster County now. I don't see her that often anymore.

14 MRS. STEINER: Thank you.

15 THE COURT: Anything?

16 JUROR SHIRLEY MCNEER: Thank you.

17 MR. EVANS: Not from the State.

18 THE COURT: Miss McNeer, you can go at this
19 time. If you will, be back at 10:30 in the morning.

20 JUROR SHIRLEY MCNEER: Yes, sir. Thank you so
21 much.

22 (JUROR SHIRLEY MCNEER LEFT THE COURTROOM.)

23 THE COURT: We need Number 35, Mr. Newman.

24 (JUROR NUMBER 35, MOSES NEWMAN, ENTERED THE COURTROOM.)

25 THE COURT: If you will, just have a seat just
26 for a minute, Mr. Newman. It is not going to take long.

27 (JUROR MOSES NEWMAN WAS SEATED.)

28 Mr. Newman, during earlier questioning I think we
29 had brought out the possibility that your uncle, I

1 believe, is, is Joe Forrest; is that correct?

2 JUROR MOSES NEWMAN: Jimmy.

3 THE COURT: Jimmy Forrest. I'm sorry. I can't
4 read my own writing. Jimmy Forrest would possibly be a
5 witness in this case, and you had indicated that you
6 would feel compelled to, you know, accept his testimony,
7 because he was your uncle. Do you still feel that way?

8 JUROR MOSES NEWMAN: Not anymore.

9 THE COURT: So can you just consider his
10 testimony just like you would the testimony of anybody
11 else in the case?

12 JUROR MOSES NEWMAN: Yes, sir.

13 THE COURT: And the fact that he is your uncle,
14 would that be a factor at all in you being a fair and
15 impartial juror?

16 JUROR MOSES NEWMAN: No, sir.

17 THE COURT: And I understand that Mr. Forrest,
18 your uncle, would only testify -- and let me back up and
19 explain this again. I think it is clear, but I want to
20 make it clear again to you.

21 In this type case there is two phases to the trial,
22 possibly two phases. First phase, you decide the guilt
23 or innocence of Mr. Flowers. The second phase would only
24 come into play if you found Mr. Flowers guilty, and that
25 would be the sentencing phase.

26 And I understand your uncle would not be called in
27 to testify until the sentencing phase. And I think at
28 that point he would be testifying that he thought for
29 some reason or another there was mitigating circumstances

1 and that you should not impose the death penalty upon Mr.
2 Flowers because of that.

3 And if your uncle testified that he thought Mr.
4 Flowers should be spared or should not get the death
5 penalty, would you feel like you had to agree with your
6 uncle because that was his view? Or would you judge it
7 independently and not have that be a factor?

8 JUROR MOSES NEWMAN: I would judge it
9 independently, sir.

10 THE COURT: And that would not be a factor at
11 all, the fact that he is your uncle; is that correct?

12 JUROR MOSES NEWMAN: Yes, sir.

13 THE COURT: Okay. Does either side have any
14 questions?

15 MR. EVANS: One moment, Your Honor.

16 I want to kind of do a combination of two areas.

17 One, there was the issue of whether or not you
18 believed in the death penalty.

19 JUROR MOSES NEWMAN: Yes, sir.

20 MR. EVANS: But considering that this is a
21 death penalty case, with your beliefs, whatever they are
22 against the death penalty, and knowing that your uncle is
23 going to be testifying that the defendant should not get
24 the death penalty, could you give the death penalty if
25 the facts were appropriate?

26 JUROR MOSES NEWMAN: Yes, sir.

27 MR. EVANS: Nothing further, Your Honor.

28 THE COURT: Anything from the defendant?

29 MR. CARTER: Nothing, Your Honor.

1 THE COURT: Mr. Newman, if you will, be back at
2 10:30 in the morning. I hope you have a good evening. I
3 appreciate you staying a little late and answering these
4 additional questions.

5 JUROR MOSES NEWMAN: Thank you, sir.

6 (JUROR MOSES NEWMAN LEFT THE COURTROOM.)

7 THE COURT: I am trying to remember now why it
8 was Number 41...

9 MR. DEGRUY: She had mentioned -- she mentioned
10 that her husband was a former supervisor, and she had
11 some private information.

12 THE COURT: No. No. That is not going to be
13 the right one.

14 This is Number 41. Her first husband was law
15 enforcement officer in Alabama and died in the line of
16 duty. And, and her husband is a nurse out at the Carroll
17 Montgomery Correctional Facility.

18 MR. HILL: Former supervisor. The former
19 supervisor in this county.

20 THE COURT: Her husband former supervisor in
21 this county. Okay.

22 MR. HILL: Well, I just ---

23 THE COURT: Okay. Okay. Then let's bring her
24 in. Yeah. Okay.

25 MR. HILL: That's what she said.

26 THE COURT: Okay. I see that note now. I was
27 thinking I was confused, but I appreciate -- everybody
28 taking notes very much helps.

29 (JUROR NUMBER 41, JOYCE HENSON, ENTERED THE COURTROOM AND

1 WAS SEATED.)

2 Miss Henson, I believe during previous questioning
3 you had said your husband was a former supervisor in this
4 county, and that he had acquired some facts about the
5 case that were not known to the general public.

6 JUROR JOYCE HENSON: (Nodded.)

7 THE COURT: And can you share with us anything
8 that you might have heard about the case?

9 JUROR JOYCE HENSON: I really do not know any
10 particulars. I mean he may have said something, you
11 know, in conversation. But I would not have any -- I
12 don't -- I was not living here at the time that this
13 occurred. And I really had no specific interest in it,
14 you know, in the occurrence, other than I was just sorry
15 it had occurred.

16 But, you know, as to having any major discussions
17 about the case, he and I have never had any discussions
18 about the case. I don't really remember anything other
19 than when he started working at the correctional facility
20 I became aware that Mr. Flowers was a inmate and that he
21 was seeing him on a regular basis and providing medical
22 care.

23 As to whether anything was specifically said, I just
24 don't remember. And I wouldn't have any knowledge of
25 whether it was public knowledge or not.

26 THE COURT: Okay. Well, has anything that you
27 have heard caused you to form an opinion as to Mr.
28 Flowers' guilt or innocence?

29 JUROR JOYCE HENSON: No, sir.

1 THE COURT: And, and would anything you have
2 heard play a factor in you deliberating in this case?

3 JUROR JOYCE HENSON: No, sir.

4 THE COURT: And can you lay anything you heard
5 aside and base your decision only on the evidence
6 presented here in court?

7 JUROR JOYCE HENSON: Yes, sir.

8 THE COURT: And the fact that your husband is a
9 nurse at the correctional facility, would that be a
10 factor at all in you -- in you being a fair juror in this
11 case?

12 JUROR JOYCE HENSON: No, sir.

13 THE COURT: Anybody have any questions?

14 MR. EVANS: None from the State.

15 MR. CARTER: (Shook head.)

16 MRS. STEINER: None. You covered it.

17 THE COURT: Miss Henson, I appreciate you
18 staying late. You may go. And if you would, be back at
19 10:30 in the morning.

20 (JUROR JOYCE HENSON LEFT THE COURTROOM.)

21 We need Number 117, Mr. Bennett.

22 (JUROR NUMBER 117, JOHN BENNETT, ENTERED THE COURTROOM.)

23 THE COURT: If you will, have a seat just for a
24 second, Mr. Bennett.

25 (JUROR JOHN BENNETT WAS SEATED.)

26 THE COURT: Mr. Bennett, did you -- I believe
27 you testified yesterday that you were a second cousin of
28 Bertha Tardy.

29 JUROR JOHN BENNETT: I am.

1 THE COURT: Is that correct?

2 JUROR JOHN BENNETT: Yes, sir.

3 THE COURT: And would the fact that she is
4 murdered and you a cousin of hers influence you or be a
5 factor in you being a fair and impartial juror in this
6 case?

7 JUROR JOHN BENNETT: No, sir.

8 THE COURT: If you were to find Mr. Flowers not
9 guilty in this case, and you were to see some of your
10 other relatives, would you feel ill at ease being around
11 them or feel like you owed them some kind of explanation
12 for how you had ruled or anything like that?

13 JUROR JOHN BENNETT: No, sir.

14 THE COURT: So are you saying that this kinship
15 will not be a factor at all in you being a fair and
16 impartial juror?

17 JUROR JOHN BENNETT: It will not be.

18 THE COURT: And can you lay aside any
19 information you have heard about the case and base your
20 decision only on the evidence that is presented here in
21 court?

22 JUROR JOHN BENNETT: Yes, sir.

23 THE COURT: Okay. And how often during your --
24 during her lifetime did y'all run into each other?

25 JUROR JOHN BENNETT: It was very distant. Her
26 daddy and I attended some auctions together. I actually
27 never was around Bertha a whole lot.

28 We got married in '68, me and my wife. We actually
29 bought furniture from them then. But that is -- I think

1 that was before she become a Tardy. I think she was
2 still a Bennett then.

3 THE COURT: After that did y'all really have
4 any occasion to really be around each other?

5 JUROR JOHN BENNETT: No, sir. No, sir.

6 THE COURT: Okay. Thank you.

7 And does either side have any questions?

8 MR. EVANS: No, sir.

9 MR. CARTER: I have just one.

10 Have you discussed the case with Roxanne Ballard?

11 JUROR JOHN BENNETT: I don't even know Roxanne
12 Ballard.

13 MR. CARTER: Thank you.

14 THE COURT: Mr. Bennett, you may go. If you
15 will, be back at 10:30. And I appreciate you staying a
16 little late today.

17 Linda Malone. 137.

18 (JUROR JOHN BENNETT LEFT THE COURTROOM.)

19 (JUROR NUMBER 137, LINDA MALONE, ENTERED THE COURTROOM.)

20 THE COURT: Miss Malone, you had indicated
21 earlier that you had had some conversation with Miss
22 Ballard, and we didn't want you to discuss that out in
23 front of everybody. And so what kind of conversations or
24 can you kind of give us a little detail now about these
25 conversations?

26 JUROR LINDA MALONE: She had told me that John
27 Johnson had said something about the -- about him.

28 THE COURT: About Mr. Flowers?

29 JUROR LINDA MALONE: Right. About Mr. Flowers.

1 And basically, it was just that he could murder somebody
2 and eat cornflakes at the breakfast table.

3 THE COURT: And how did that -- what impact did
4 that have on you?

5 JUROR LINDA MALONE: Well, I really don't know
6 him. So other than that conversation, none.

7 THE COURT: And would that come into play at
8 all if you were sitting as a juror in this case?

9 JUROR LINDA MALONE: No, sir.

10 THE COURT: And can you lay aside your
11 friendship with Miss Ballard and base your decision only
12 on the evidence presented here in court?

13 JUROR LINDA MALONE: Yes, sir. I wasn't here
14 at the time of this at all.

15 THE COURT: Well, is that when you were living
16 in Jackson?

17 JUROR LINDA MALONE: Hattiesburg.

18 THE COURT: Hattiesburg. Okay. So you moved
19 here after 1996.

20 JUROR LINDA MALONE: Right. I have only been
21 here six years.

22 THE COURT: Okay. And has anything that you've
23 heard through Miss Ballard or anyone else caused you to
24 form an opinion as to the guilt or innocence of Mr.
25 Flowers?

26 JUROR LINDA MALONE: No, sir.

27 THE COURT: And can you lay aside any
28 information that you might have heard from any source and
29 base your decision only on the evidence that is presented

1 here in court?

2 JUROR LINDA MALONE: Yes, sir.

3 THE COURT: Does either side have any
4 questions?

5 MR. EVANS: None from the State.

6 MR. CARTER: I have just one.

7 You say you lived in Petal.

8 JUROR LINDA MALONE: Uh-huh. No. I worked in
9 Hattiesburg.

10 MR. CARTER: And how long were you in --

11 JUROR LINDA MALONE: For like ten years.

12 THE COURT: Miss Malone, I appreciate you being
13 here. If you will, be back at 10:30 in the morning.

14 JUROR LINDA MALONE: Okay.

15 THE COURT: Number 147. Miss Smith.

16 (JUROR LINDA MALONE LEFT THE COURTROOM.)

17 (JUROR NUMBER 147, JAMITA SMITH, ENTERED THE COURTROOM.)

18 THE COURT: Miss Smith, if you will, come
19 around and have a seat.

20 JUROR JAMITA SMITH: Yes, sir.

21 (JUROR JAMITA SMITH WAS SEATED.)

22 THE COURT: Miss Smith, there was -- you were
23 responding to some questions and indicated something
24 along the lines that you had had some people make some
25 racially charged comments to you that had affected you or
26 actually brought you to tears, I think.

27 JUROR JAMITA SMITH: Yes, sir, it did.

28 THE COURT: Now, what happened? And, and when
29 did that happen?

1 JUROR JAMITA SMITH: It happened yesterday. I
2 was sitting back there, like that fourth row. And the
3 people, they were sitting back there where the -- in the
4 last two rows where the young ladies -- the two young
5 ladies with the glasses were.

6 THE COURT: Right.

7 JUROR JAMITA SMITH: And they were sitting back
8 there. And basically -- no, no, no. Miss McClurg was
9 sitting right there.

10 THE COURT: Who?

11 JUROR JAMITA SMITH: Can, can I point it out,
12 please?

13 THE COURT: Well, who? I didn't hear who you
14 had said.

15 JUROR JAMITA SMITH: Mr. Blueitt, the man that
16 had the stroke. He had got dismissed. He was sitting --
17 well, I'll just demonstrate. This is the back row. Mr.
18 Blueitt was sitting -- this is the back row. Mr. Blueitt
19 was sitting right here. The people that was in that row
20 where the young lady is in the black shirt or whatever,
21 they were all lined up right there. And then it was one
22 in that third row right there.

23 And I'm sitting right there on the end. And they
24 said -- I don't want to lie so I am going to repeat it
25 word-for-word. I don't know their names. Like I said --

26 THE COURT: Well, I want you to repeat it
27 word-for-word.

28 JUROR JAMITA SMITH: Okay.

29 THE COURT: I mean I know you might not like

1 certain language, and I don't either. But I think it is
2 important for the record that you state exactly what you
3 heard and...

4 JUROR JAMITA SMITH: Yes, sir. Well, basically
5 one gentleman started off it's about time -- well, they
6 need to cut this b.s., because this n-word done killed
7 four, four of our kind, not to mention how many other
8 n-words he done killed.

9 And then when Mr. Blueitt stood up, they start
10 talking about him, not knowing that he had a stroke or
11 whatever. And talking about look at this dumb n-word.
12 He's -- he don't know what he's talking about. He can't
13 even talk right.

14 It was just a bunch of, you know, ill-mannered
15 remarks that touched me personally, because I'm not from
16 down here, as I stated before. And I just don't like
17 that. I'm just going to be honest. It is no other way
18 to put it. It got me nervous about it, talking about it
19 right now. Because this is not the first encounter I
20 have had with racism since I have moved to Winona.

21 THE COURT: And who, who was it that made this
22 comment?

23 JUROR JAMITA SMITH: I don't know their name,
24 sir. It was --

25 THE COURT: Was it somebody that was on the
26 jury or somebody --

27 JUROR JAMITA SMITH: Yes. Like I said, they
28 are still here. They are not here now, and they are not
29 present.

1 THE COURT: I mean were they excused from the
2 panel already?

3 JUROR JAMITA SMITH: No, sir. It is some of
4 them still remaining, sir.

5 THE COURT: Excuse me.

6 JUROR JAMITA SMITH: Some of them still
7 remaining here, sir.

8 THE COURT: Well, how many people were talking?

9 JUROR JAMITA SMITH: Okay. Mr. Blueitt and
10 another gentleman. Then one, two, three, four. It was
11 about, like, four or five people.

12 THE COURT: And where were they sitting?

13 JUROR JAMITA SMITH: This was before you gave
14 everybody the numbers.

15 THE COURT: I mean did this happen yesterday?

16 JUROR JAMITA SMITH: Yes, sir. It was before
17 you gave everybody the numbers.

18 THE COURT: So was this like I -- what, what
19 did -- you came in, I believe -- what time did you come
20 in?

21 JUROR JAMITA SMITH: First I came in my paper
22 told me to be here at 9:00, but then Miss -- the clerk
23 told me that I supposed to -- I'm in for 10:45. So I was
24 here with the 10:45 group.

25 THE COURT: Okay. So was this while y'all were
26 all together in the 10:45 group?

27 JUROR JAMITA SMITH: Yes, sir, it was.

28 THE COURT: And four or five people.

29 JUROR JAMITA SMITH: Yes, sir.

1 THE COURT: Okay. Now, is that going to be a
2 factor or influence you in being a fair and impartial
3 juror in this case?

4 JUROR JAMITA SMITH: No, sir, it is not.

5 THE COURT: And so if you had to sit in this
6 case, that is not going to influence you at all.

7 JUROR JAMITA SMITH: No, it is not. Another
8 person's ignorance doesn't change my mind.

9 THE COURT: Well, would the fact that you have
10 got some people that are making comments like that cause
11 you to favor Mr. Flowers' side just because you do have
12 --

13 JUROR JAMITA SMITH: No, sir.

14 THE COURT: -- some ignorance out there?

15 JUROR JAMITA SMITH: No, sir. Because then I
16 would be a hypocrite.

17 THE COURT: So is -- are you going to judge the
18 case independently and not --

19 JUROR JAMITA SMITH: Independently.

20 THE COURT: -- and not let this incident
21 influence you at all?

22 JUROR JAMITA SMITH: And with my own mind.

23 THE COURT: If the facts show he is guilty, you
24 will vote guilty. If the State does not show him guilty,
25 you will vote not guilty. Is that correct?

26 JUROR JAMITA SMITH: Correct, sir.

27 THE COURT: And on the death penalty question,
28 if the facts justify it and the law allows it, could you
29 consider the death penalty?

1 JUROR JAMITA SMITH: Yes, sir, I could.

2 THE COURT: And you would also consider life
3 without parole.

4 JUROR JAMITA SMITH: Yes, sir, I could.

5 THE COURT: And so you are open-minded on those
6 options; is that correct?

7 JUROR JAMITA SMITH: Yes, sir. I am
8 open-minded to everything, sir.

9 THE COURT: And do you have anything at all
10 that would come into play that would affect you in being
11 a fair and impartial juror in this case?

12 JUROR JAMITA SMITH: No, sir.

13 THE COURT: Does either side have any
14 questions?

15 MR. EVANS: Very briefly, Your Honor.

16 And I guess the only thing that I want to cover with
17 you, I want to make sure - you said that it, it did make
18 you nervous, and you left out crying.

19 JUROR JAMITA SMITH: Yes, sir.

20 MR. EVANS: Do you think that that would enter
21 into your thought process if you were picked as a juror?

22 JUROR JAMITA SMITH: No, sir, it wouldn't.

23 MR. EVANS: And --

24 JUROR JAMITA SMITH: Can I say something?

25 MR. EVANS: Sure.

26 JUROR JAMITA SMITH: Even though it is a few
27 folks out here that is ignorant, I still don't judge a
28 person because of how they were brought up or what they
29 may have experienced with another person of color. I

1 don't do that. I don't judge one group just by what a
2 few people do. That is not in my mentality.

3 MR. EVANS: And if you were picked as a juror,
4 you would listen to the evidence and base your decision
5 --

6 JUROR JAMITA SMITH: Yes, sir, I sure would.

7 MR. EVANS: -- only on the evidence.

8 JUROR JAMITA SMITH: Yes, sir, I sure would.

9 MR. EVANS: Nothing further, Your Honor.

10 THE COURT: Thank you, Miss Smith, for staying
11 late. If you will, be back at 10:30 in the morning.

12 JUROR JAMITA SMITH: Okay. No problem. I just
13 been bringing my clothes up here every day. I walk up
14 here. And they are outside. I just been bringing them
15 back and forth.

16 THE COURT: I appreciate the effort you are
17 making to be here.

18 JUROR JAMITA SMITH: Yes, sir.

19 THE COURT: I truly do.

20 JUROR JAMITA SMITH: Y'all have a --

21 THE COURT: And you will be announced tomorrow
22 whether you are on the panel or not, so tomorrow you will
23 either be seated or be allowed to go.

24 JUROR JAMITA SMITH: Okay. Thank you. Have a
25 --

26 BAILIFF: Leave your number.

27 (JUROR JAMITA SMITH LEFT THE COURTROOM.)

28 THE COURT: And if you will, get Number 157,
29 Mr. Tompkins.

1 MR. DEGRUY: Your Honor, we, we have -- before
2 we bring in the last juror, we have a couple of motions
3 to make. The jurors were coming in and out so fast we
4 didn't have an opportunity to do this.

5 Juror Number 11 who stated that -- who, who knew the
6 Stewarts, the Rigbys and the Tardys did not answer when
7 asked directly on voir dire. Only when we brought him in
8 here he said oh, yeah, I have heard a lot about the case,
9 just like everyone around him. And he had failed to
10 answer direct questions on voir dire.

11 We would ask that he be struck for that failure to,
12 to answer until we brought him in here individually and
13 directly confronted him with his failure to answer a
14 question.

15 THE COURT: I think he has answered it now. He
16 explained why he did not answer it. I don't think that
17 is a strike for cause. It certainly would be a valid
18 ground for peremptory challenge.

19 And I'll note we've had a number of people that
20 didn't answer their questionnaires completely that we had
21 to go into detail with them. I asked a number of people
22 that did not respond on questionnaires. So he is not the
23 only instance on the panel of someone that did not give a
24 complete answer. And that is why we kept him to
25 individually question him.

26 And again, I think that would certainly be a valid
27 peremptory challenge if you choose to exercise one on
28 that ground.

29 MR. DEGRUY: The next one, Your Honor, is Juror

1 Number 137, Miss Malone. She has spoken to Roxanne
2 Ballard, who is a State's witness both at the guilt
3 phase, but also in the sentencing phase. She has
4 testified in every trial. We expect she will testify
5 again.

6 The, the information that this juror got from Miss
7 Ballard that was said to have come directly from the
8 district attorney's office that goes -- is best described
9 as anti-remorse evidence. This person could kill and
10 then eat a bowl of cornflakes.

11 That information she has, that can't be -- that, in
12 fact, came from a State witness would have been improper
13 coming -- it would be improper to let her sit on this
14 jury. There is no way to take that out of her head. She
15 he has heard it.

16 It's, it's, it's not -- it is essentially
17 non-statutory aggravation. And considering what she
18 believes the source of this information to be, it
19 wouldn't be proper to let her sit on this jury.

20 MR. EVANS: She has clearly said that that
21 would not affect her at all. She was emphatic about the
22 fact that it would not affect her. She would not even
23 consider it and base her decision strictly on the
24 evidence. Every prospective juror out there has heard
25 things both ways on this case already.

26 THE COURT: Well, I am going to be consistent
27 with my colleague from November. Judge Morgan heard this
28 same type information, he allowed that one for cause at
29 that time. And in fact, I read the transcript where she

1 actually mentioned the same incident concerning
2 cornflakes. And she did hear that statement from someone
3 that is on the prosecution's staff. And so I am going to
4 allow that one for cause.

5 Now, she is going to be coming in like everybody
6 else in the morning, but that will be one that will be
7 allowed and will be stricken for cause.

8 MR. DEGRUY: Your Honor, our final motion is
9 based on the testimony that was just given by Juror
10 Number 147. She did not -- we don't know which jurors
11 these are. But based on her testimony, there are jurors,
12 prospective jurors, still sitting on this jury who
13 clearly have prejudged the case and have not come forward
14 with that information. And it's in the form of
15 prejudice. It is racial bias.

16 And based on that -- I, I -- the only motion we can
17 make is motion for mistrial and to quash this jury panel.

18 MR. EVANS: Your Honor, we don't even know if
19 any of that is true. There were bailiffs in the
20 courtroom. There were other people in the courtroom.
21 Nobody apparently heard that except for somebody that was
22 sitting up close to the front, just happened to hear four
23 or five people in the back talking. That just does not
24 sound practical to me.

25 THE COURT: Well, I question sincerely the
26 credibility of this witness. She has at different times
27 just popped up during voir dire and stood up and started
28 running her mouth about different things. And you know,
29 I mean, I have got, Good Lord, I don't even know how many

1 notations I've written in my notes about different things
2 that she has said.

3 I find it interesting she couldn't recall the
4 details of any individual that had said anything. And
5 again I, I do not find her to be credible in what she was
6 saying. All the panel was asked as a whole if they could
7 consider -- if racial prejudice would come into play.
8 Every single one of them that were sitting out there said
9 it would not come into play.

10 You know, this, what I believe to be imaginary
11 statement she is talking about, is not worthy of granting
12 a mistrial. So I will deny a mistrial motion.

13 And I'll -- we will get now Mr. Tompkins, 157.

14 (JUROR NUMBER 157, DANNY TOMPKINS, ENTERED THE
15 COURTROOM.)

16 THE COURT: If you will, have a seat there just
17 a second, Mr. Tompkins.

18 (JUROR DANNY TOMPKINS WAS SEATED.)

19 You are in law enforcement; is that correct?

20 JUROR DANNY TOMPKINS: Yes, sir.

21 THE COURT: And would the fact that you are in
22 law enforcement influence you or be a factor at all in
23 you being a fair and impartial juror in this case?

24 JUROR DANNY TOMPKINS: No, sir.

25 THE COURT: And if you were to rule against the
26 State's side finding Mr. Flowers not guilty, would you
27 feel you owed anybody in law enforcement any explanation
28 for how you had ruled or feel like you had to, you know,
29 be ill at ease around anybody in law enforcement?

1 JUROR DANNY TOMPKINS: No, sir.

2 THE COURT: And I believe you knew the Rigbys
3 and some of the victims in this case. And would any of
4 those factors come into play or influence you in any way?

5 JUROR DANNY TOMPKINS: No, sir.

6 THE COURT: And is there anything at all that
7 would keep you from being a fair and impartial juror in
8 this case?

9 JUROR DANNY TOMPKINS: Nothing.

10 THE COURT: Either side have any questions?

11 MR. EVANS: None from the State, Your Honor.

12 MRS. STEINER: Yes, Your Honor.

13 Mr. Tompkins, did, did you say that you are kin with
14 Mr. Thornburg, who is likely to be a --

15 JUROR DANNY TOMPKINS: No, ma'am.

16 MRS. STEINER: -- witness. Okay. You know --
17 you are acquainted with him from being a fellow law
18 enforcement officer.

19 JUROR DANNY TOMPKINS: Yes, ma'am.

20 MRS. STEINER: Has it -- that's the -- he is
21 going to be -- he is likely to be a witness here. Would
22 you be able to consider his testimony as a law
23 enforcement officer with -- I mean would you be more
24 inclined to believe his testimony if it were disputed by
25 someone else over what someone disputed it?

26 MR. EVANS: I don't think that is the proper
27 form of that question, Your Honor.

28 MRS. STEINER: I think it is the questions he
29 was asking.

1 THE COURT: You can ask it.

2 JUROR DANNY TOMPKINS: I mean no.

3 MRS. STEINER: Okay. And that goes without
4 saying, even though you are generally acquainted with
5 multiple law enforcement officers who may be testifying.

6 JUROR DANNY TOMPKINS: That's correct.

7 MRS. STEINER: Thank you.

8 THE COURT: Mr. Tompkins, if you will, be back
9 at 10:30 in the morning, and you are free to go at this
10 time.

11 Mrs. Steiner, you may have been looking at -- he, he
12 is the first cousin to a former sheriff that lived and
13 worked here. Robert Tompkins was the sheriff about two
14 or three sheriffs ago. I didn't know if you probably
15 just wrote former sheriff.

16 MRS. STEINER: Yes. And I apologize.

17 THE COURT: No. That is fine. I just -- I
18 thought that is probably what you had in mind.

19 MRS. STEINER: It was in my column.

20 THE COURT: Counsel, if you will, be present in
21 the courtroom at 9:00 in the morning. We will go through
22 the jury selection process at that time. We will seat a
23 jury at 10:30. Then we will be ready to hear your
24 opening statements as soon as the jury is seated.

25 MR. CARTER: Your Honor, do you have any policy
26 on Saturday in case we happen to finish?

27 THE COURT: I am going to play it by ear. I
28 just -- I will probably, because of the jury being
29 sequestered, will probably at least have court for part

1 of the day on Saturday. Because, you know, I, I just
2 feel like that is probably what the jury would do. But
3 we will re-evaluate that nearer to the time.

4 We will be in recess until the morning.

5 (THE PROCEEDING ON THIS DATE WAS CONCLUDED.)
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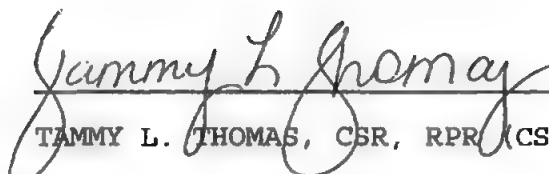
STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 395 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 13th day of February, 2009.


TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)
OFFICIAL COURT REPORTER
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Noxapater, Mississippi 39346

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

EXCERPT OF TRIAL PROCEEDINGS HAD AND DONE IN THE ABOVE STYLED
AND NUMBERED CAUSE, BEFORE HIS HONOR, JUDGE JOSEPH H. LOPER,
JR., CIRCUIT JUDGE, FIFTH CIRCUIT COURT DISTRICT OF THE STATE
OF MISSISSIPPI, AND A JURY OF TWELVE MEN AND WOMEN, DULY
IMPANELED, BETWEEN SEPTEMBER 24, 2008 AND SEPTEMBER 30, 2008.

REPORTED BY OFFICIAL COURT REPORTER
TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)

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P-R-O-C-E-E-D-I-N-G-S

(COURT WAS DULY OPENED ON SEPTEMBER 24, 2008.)

(MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE PRESENT IN THE COURTROOM. THE PROSPECTIVE JURORS WERE NOT PRESENT. PROCEEDINGS WERE AS FOLLOWS:)

THE COURT: Okay. Court will come to order.

The last order of business yesterday was we had completed voir dire, and we are now ready for the State to begin tendering a panel.

So if you will proceed, Mr. Evans.

MRS. STEINER: Your Honor, I'm sorry.

Yesterday we had reserved the right to address further cause challenges on the panel that was resolved. And I'd like to do those at this time, at least on the first 45 jurors who are likely to be whom we are striking from. I'd like to renew to the extent we made cause challenges yesterday, those challenges.

And then on, on Prospective Juror 21, Miss McNeer, I -- since she was late with her juror questionnaire, we didn't all have it. I was going over it last night. And I would make a motion that she be stricken as a juror, excludable under *Morgan versus Illinois*.

Her questionnaire, she responded that yes, she can consider the death penalty; no, she could not consider life without, during the course of voir dire. She did say that she did not mean that as a absolute response.

But what she finally said in response to the Court was she could or would go along with life without as a

1 possible sentence. And I believe that does not suffice
2 under *Morgan* given the answer, because what *Morgan* makes
3 it clear is the consideration of mitigation.

4 BAILIFF: Your Honor.

5 (THE BAILIFF MOTIONED TO A GENTLEMAN IN THE AUDIENCE.)

6 UNIDENTIFIED COURTROOM SPECTATOR: I, I can't
7 hear anything.

8 THE COURT: Well, I am the one that is
9 concerned about hearing right now.

10 MRS. STEINER: Her mitigation, it's an
11 individualized decision. It is not just simply going
12 along with others. It is a subjective ability of the
13 prospective juror to consider mitigation of his or her
14 own initiative. I do not believe that Miss McNeer's
15 response went as far as was required under that.

16 And we would add to the grounds for cause challenge
17 to her a challenge under *Morgan versus Illinois* for those
18 reasons.

19 MR. EVANS: Your Honor, in response to Juror
20 Number 21, she clearly stated to the Court that she was
21 in a rush to fill out the questionnaire, that that was
22 not what she meant, that she could be fair and impartial
23 and she could view either possible sentence as an option.

24 There was absolutely no equivocation and none of
25 what the defense said is in the record because it didn't
26 happen.

27 THE COURT: Well, I do remember her clearly
28 saying that she had gotten in a rush to fill the
29 questionnaire and that she could consider life without

1 parole as an option.

2 Of course, actually, as we all know, the jury really
3 doesn't consider life without parole as an option. If
4 they don't impose the death penalty, they don't then
5 impose life without parole anyway.

6 But I do not find that to be a valid strike for
7 cause.

8 MRS. STEINER: Thank you, Your Honor.

9 Your Honor, Juror, Prospective Juror Number 45, Miss
10 Braswell, we would challenge her for cause on the basis
11 of being someone -- and one of her responses was that she
12 was working across the street when the incident happened
13 and there -- that puts her in the position of a potential
14 witness in light of what the evidence is in this case.

15 There's testimony going to be -- I mean she is --
16 she is not subpoenaed by either side. But given that she
17 is essentially in what very quickly since police got
18 there became a crime scene and a search area, she is
19 within that.

20 I think it would not be fair to either the defendant
21 or the jury to leave a juror who is going to be hearing
22 about events of which she has firsthand knowledge if she
23 was working across the street when this incident happened
24 right at the same time.

25 And we would move to strike her for cause for
26 knowledge of information outside what's going to
27 necessarily come in in trial at that.

28 You know, there are some things -- I know she said
29 she could be fair. I believe she was sincere in what she

1 was saying, but I think there are just -- if you are
2 there when it happens and are part of the incident, that
3 you need to be excluded for the possibility of having
4 outside influence -- outside evidence not in the record
5 to be a part of what you do.

6 MR. EVANS: Which again, Your Honor, that, that
7 theory just won't fly. If you did that, you would have
8 to say that everybody that was in Winona that morning
9 couldn't be on the jury because they know what the area
10 of town looks like.

11 There is absolutely nothing that indicates this
12 witness knows anything about this case other than she
13 probably knows where these buildings are located, which
14 anybody on our jury is going to know. That is just
15 absolutely no basis.

16 THE COURT: She stated affirmatively that it
17 would not affect her in any way.

18 And certainly the Court yesterday gave opportunity
19 to individual voir dire anybody that was a concern. And
20 I think we did about 10 or 11 individual voir dires. The
21 defense did not choose to bring her forward.

22 I don't think that there is anything in the record
23 that would support the idea that she cannot be a
24 completely fair and impartial juror. She stated she
25 could. She under oath stated that she could. And I
26 trust her word on that, and I do not find that to be a
27 valid one for cause.

28 MRS. STEINER: Thank you, Your Honor.

29 The next cause challenge we would have would be for

1 Juror Number 64, Danny Groves. He, he disclosed on juror
2 questionnaire and in voir dire by the Court that he is
3 himself a Kosciusko police officer.

4 But it was not -- and I believe he was voir dired on
5 that by the Court. I think the State may have asked him
6 a question or two. But until he was very -- and, and the
7 other thing -- and, and what he finally revealed is was
8 not only acquainted, as most law enforcement officers who
9 live in the county would be, with other law enforcement
10 officers, not until the very end of voir dire, he finally
11 in response to a couple of questions from Mr. Carter,
12 said well, yes, and, I actually served as a Winona police
13 officer. And I -- I'm not sure if it was a deputy or
14 reserve deputy for Montgomery County.

15 And I believe that that is concealment through a
16 voir dire process. And he is an officer. And as he put
17 in his questionnaire, he has testified for both, you
18 know, in court. He is perfectly well aware of the voir
19 dire process from his professional work. And that this
20 speaks of deliberate attempt, much as we have had found
21 with Number 11, to conceal relevant information that
22 might be of significance with respect to partiality.

23 And that thus any statement that he could be fair
24 and impartial despite these facts is not to be accorded
25 the kind of deference that the Court has been according
26 in other instances. And we would move that he be
27 stricken for cause for failure to be forthright in voir
28 dire and for the connections that might bias him.

29 MR. EVANS: Your Honor, he was very

1 forth-right. He admitted to the Court he is a full-time
2 officer with Kosciusko Police Department. He is a
3 part-time officer with Duck Hill Police Department.

4 He stated that when he was asked that he had worked
5 for Winona Police Department at one time, but it was
6 after this crime had occurred. He was not working at the
7 time of the crime. There was nothing. He has not
8 discussed this case with any officer that worked the
9 case. He has no personal knowledge of the case.

10 He said he could be fair and impartial and his
11 working as a law enforcement officer would not affect his
12 ability in any form or fashion of being fair and
13 impartial.

14 THE COURT: And actually, I thought I was the
15 one that asked him the question about where all he had
16 worked.

17 MR. EVANS: Yes, sir.

18 THE COURT: I don't think that came out when
19 Mr. Carter was asking him questions. My memory may be
20 incorrect, but I was fairly certain that I'm the one that
21 asked the question. But I remember his responses being
22 pretty much what the prosecutor said, that he wasn't
23 working for Winona at the time and that he had not
24 discussed this case with anyone in law enforcement and
25 that it would not affect his ability to be fair and
26 impartial.

27 And I don't find that he was trying to conceal
28 anything. And you know, if he gave complete answers and
29 responses during voir dire to anything that was asked, so

1 I don't see that to be a valid one for, for cause.

2 MRS. STEINER: Thank you, Your Honor.

3 That concludes challenges for cause in the first 45
4 jurors. If we were to get passed those, we would reserve
5 the right to visit...

6 THE COURT: That will be fine.

7 And I wanted to note a couple of things on the
8 record. We sent out jury questionnaires to 600 jurors.
9 And now these were before we got some late responses, but
10 my calculations last week were we had responses from 169
11 white individuals, 138 black, 12 who did not make a
12 distinction on their form and one Hispanic.

13 After different ones were released for -- either
14 because they didn't meet the qualifications to serve as a
15 juror or because they had some hardship that necessitated
16 them being exempt, we ended up voir diring a panel that
17 was composed of 96 white individuals and 71 black
18 individuals.

19 And I know yesterday there was a motion not to allow
20 the State to seek the death penalty or, or strike under
21 *Witherspoon* and was noted that there were ten black
22 individuals that were removed from the panel for
23 *Witherspoon*.

24 But I want it noted for the record that it was in
25 excess of 20 that were excused for cause because they
26 knew Mr. Flowers and maybe three or somewhere along that
27 line that knew or had made up their mind and had
28 knowledge of the case.

29 So you know, while the defense can complain about

1 the death penalty, I think it should be noted more than
2 2 1/2 times as many people were excused because they did
3 know Mr. Flowers or had some knowledge of the case.

4 And I'll further note that there were past instances
5 where the defense had moved for a change of venue, and
6 the defense did not do so in this instance. So the
7 defense knew that there was a possibility that there
8 would be a number of black citizens that would be excused
9 because of knowledge of the case or Mr. Flowers.

10 And with that, I'll be ready now for the State to
11 proceed tendering the panel.

12 MR. EVANS: Yes, sir, Your Honor. State will
13 tender Juror Number 1. Juror Number 2 will be S-1. The
14 State will tender Juror Number 5. The State will tender
15 Juror Number 6. The State will tender Juror Number 7.
16 The State will tender Juror Number 8. The State will
17 tender Juror Number 10. State will tender Juror Number
18 11. Number 13 will be S-2. State will tender Juror
19 Number 15. Number 17 will be S-3. State will tender
20 Number 21. The State will tender 22. The State will
21 tender 26. And the State will tender 28.

22 MR. DEGRUY: Your Honor, we are ready.

23 THE COURT: Ready.

24 MR. DEGRUY: Defense would accept Juror Number
25 1. Juror Number 5 will be D-1. We will accept Juror
26 Number 6. We'll accept Juror Number 7. Juror Number 8
27 will be D-2. We accept Juror Number 10. Juror Number 11
28 will be D-3. Juror Number 15 will be D-4. Juror Number
29 21 will be D-5. We'll accept Juror Number 22. We'll

1 accept Juror Number 26. Juror Number 28 will be D-6.

2 MR. EVANS: We need six more, right, Your
3 Honor?

4 THE COURT: Correct.

5 MR. EVANS: State will tender Number 31. State
6 will tender 32. Tender 33. Thirty-five will be S-4.
7 Tender 36. Tender 36-A. And tender 39.

8 MR. DEGRUY: We accept Number 31. Accept
9 Number 32. I'm sorry, Your Honor. Number 32 will be
10 D-7. We'll accept Juror Number 33. We accept Juror
11 Number 36. Accept Juror Number 36-A. Juror Number 39
12 will be D-8.

13 MR. EVANS: State will tender 41. S-5 will be
14 42. State will tender 45. And State will tender --

15 THE COURT: I only think you needed to tender
16 two for right now. Let me...

17 You only needed to tender two more for right now.

18 MR. EVANS: Okay. Thank you, Your Honor.

19 MR. DEGRUY: Your Honor, we will accept Number
20 41. Your Honor, we will accept Juror Number 45.

21 THE COURT: And because of -- because that
22 gives us a panel, but I want to have three alternates,
23 because they are going to be sequestered for several
24 days.

25 And I guess my experience from Monday, one of the
26 jurors had a son in an accident and another one went home
27 during a break and the baby was not breathing.

28 So we hope that nothing would happen to anyone. But
29 out of an abundance of caution, I want to have three

1 alternates so that if something dreadful happens to
2 someone we would have adequate alternates to move up.

3 MR. EVANS: State will tender 52 as the first
4 alternate.

5 MR. DEGRUY: That will be defense alternate
6 strike one.

7 MR. EVANS: Is it one strike per alternate?

8 THE COURT: Correct.

9 MR. EVANS: Okay. State will accept 60 for
10 first alternate.

11 THE COURT: Any objection?

12 MR. DEGRUY: We already exercised our strike,
13 Your Honor.

14 THE COURT: I'll allow -- I mean mark Miss
15 Bailey, Blakely, I'm sorry as alternate one.

16 MR. EVANS: Tender 64 as alternate two.

17 MR. DEGRUY: Would strike. Strike alternate --

18 THE COURT: Alternate two strike. So that will
19 put McBride on as alternate two.

20 MR. EVANS: Yes, sir. We will tender McBride.

21 THE COURT: I wasn't thinking that you had an
22 option of striking. I had just -- was thinking it was
23 the very next one, but I apologize. But you have
24 tendered that one now.

25 MR. EVANS: I understand.

26 THE COURT: And one more alternate.

27 MR. EVANS: Your Honor, could I have just a
28 minute to look over this, because I wasn't expecting us
29 to go but two alternates. In fact, I have -- I mean

1 three alternates. If I could have, maybe, five minutes.

2 THE COURT: I think we have got adequate time
3 before the jury is going to be here; so I will allow a
4 five-minute recess.

5 MR. EVANS: Thank you.

6 (A BREAK WAS TAKEN.)

7 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
8 CARTER AND THE DEFENDANT WERE PRESENT IN THE COURTROOM. THE
9 PROSPECTIVE JURORS WERE NOT PRESENT. PROCEEDINGS WERE AS
10 FOLLOWS:)

11 MR. EVANS: I will tender Number 70 as
12 alternate number three.

13 MR. DEGRUY: We will accept Number 70.

14 THE COURT: Now, let me read and make sure that
15 all of our notes show the same thing. I show Number 1,
16 Martha Sue Wilson; Number 6, George Lee Brown; Number 7,
17 Jenny Kendricks Bailey; Number 10, Nancy Carol Fly;
18 Number 22, Jonathan Christian Gibson; 26, Lisa Armstrong
19 Branch; 31, Orman Ronell Knox; 33, Rosemary Lancaster;
20 36, James Franklin Bibbs; number 36-A, Terry Eugene
21 Woods; 41, Joyce Henson; Number 45, Burnadette Braswell;
22 Alternate 1, Shirley Ann Blakely; Alternate 2, Cynthia
23 McBride; and Alternate 3, Number 70, Mary Annette
24 Purnell.

25 Do both sides show --

26 MR. EVANS: Yes, sir. That is what the State
27 shows.

28 MR. DEGRUY: Yes, Your Honor.

29 THE COURT: I just want to be extra cautious

1 and make sure. I guess we are actually for the first
2 time maybe running a little ahead of schedule. We are
3 supposed to have the jury come back at 10:30. We will
4 seat the jury and have opening statements at that time.

5 Ten minutes a side enough for opening?

6 MR. EVANS: Yes, sir.

7 MR. CARTER: I probably need 20.

8 THE COURT: I think you can make it ten.

9 MR. CARTER: Hopefully, the Court will let me
10 finish. Fifteen.

11 THE COURT: I'll give you ten.

12 And, of course, I mean, I know you both know, but
13 you don't argue the case in opening statements. You just
14 make statements laying out what you believe the facts
15 will show and arguments will be saved for the conclusion
16 of the trial.

17 And bailiffs, when the jurors start coming in this
18 morning, you can let them sit anywhere they want. They
19 don't have to sit in any particular order now, because
20 it's no -- we are not going to be questioning further.

21 BAILIFF: We can pick up all the numbers.

22 THE COURT: You can pick up all those fans, all
23 the numbers that are laying around. As I say, when they
24 walk in, they can be seated anywhere in the courtroom
25 that they choose.

26 And -- well, I don't want them sitting out among
27 other members of the audience though. So I guess do make
28 sure about that.

29 But with that, we will be in recess until 10:30.

1 I want -- I don't think anybody would do it, but I
2 want to caution everybody in the courtroom. You can't
3 talk to any of the jurors when they are coming in.

4 I don't want anybody walking up to a juror and
5 saying you have just been selected or anything like that.
6 I think that should be clear. But I don't want at this
7 point somebody to go -- inadvertently go say something to
8 a juror about you are on the panel or you are off the
9 panel. So I just want to make sure that everybody in the
10 courtroom understands that.

11 (A BREAK WAS TAKEN.)

12 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
13 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT. THE
14 PROSPECTIVE JURORS WERE PRESENT. PROCEEDINGS WERE AS
15 FOLLOWS:)

16 THE COURT: Ladies and gentlemen, as your names
17 are called, if you would come forward and take a seat in
18 the jury box. You have been selected as jurors in this
19 case. Mary Sue Wilson.

20 JUROR MARTHA SUE WILSON: That's Martha Sue.

21 THE COURT: It's written Martha Sue. I just
22 don't know why I can't read sometimes.

23 George Lee Brown. Jenny Kendricks Bailey. Nancy
24 Carol Fly. Jonathan Gibson. Lisa Armstrong Branch.
25 Ronell Orman Knox. Rosemary Lancaster. James Franklin
26 Bibbs. Terry Eugene Woods. Joyce Henson. Bernadette
27 Braswell.

28 And the last three names I call, you are alternate
29 jurors. We have got 12 panel -- 12 members on the panel.

1 We are going to have three alternates, because this could
2 take several days. If someone were to fall ill or not be
3 able to complete their service, then alternates would be
4 moved up in the order in which their names are called.

5 And the three alternates are Shirley Ann Blakely, Cynthia
6 McBride, and Mary Annette Purnell.

7 So if you three will come forward and have a seat as
8 well.

9 Let the record reflect the jury that was selected
10 has now been seated.

11 Ladies and gentlemen, for those of you that were not
12 selected for the panel, I appreciate your attendance and
13 your service. Certainly, you are invited to remain and
14 view the proceedings if you wish to do so, but you are
15 certainly not compelled to do so. So any of you that
16 would wish to go at this time, you may do so.

17 Ladies and gentlemen, if you will, stand at this
18 time, and I will give you the oath.

19 If you will, raise your right hand.

20 You and each of you do solemnly swear or affirm that
21 you will well and truly try the issue between the State
22 of Mississippi and the defendant, Curtis Giovanni
23 Flowers, and a true verdict give according to the
24 evidence and the law, so help you God.

25 JURY PANEL: I do.

26 THE COURT: Okay. If you will, step in the
27 jury room for just a minute. I want to take up a couple
28 of matters that will be less than five minutes.

29 (THE JURY LEFT THE COURTROOM.)

1 THE COURT: I just wanted the bailiffs to come
2 forward, and I'll swear you all in.

3 If you will, raise your right hands.

4 Do you and each of you solemnly swear or affirm that
5 you will perform the duties as bailiff and to attend on
6 such jury and perform such duties as the Court may direct
7 to the best of your ability, skill and understanding, so
8 help you God?

9 BAILIFFS: I do.

10 THE COURT: I want to go over a few matters
11 with you. Of course, we have a sequestered jury. They
12 will have to be kept together as a group during the
13 entire trial proceeding.

14 Any contact the jurors have with anyone will have to
15 be made through you. They will be not allowed to make
16 phone calls or anything like that or receive notes from
17 anyone.

18 If a family member -- they could write a note and
19 give it to you to pass along to someone, but they could
20 certainly not receive notes or anything from anyone.

21 Also, if there was a situation where they wanted to
22 look at a newspaper, you would have to read that and look
23 at that paper ahead of time to make sure that there was
24 nothing in the newspaper that would have any mention of
25 this case. And they cannot have any contact with any
26 media source that would give them a situation where they
27 might be able to gain some information about what the
28 media was saying about this case.

29 Also, you cannot discuss this case with them. There

1 might be the temptation of some of the jurors to want to
2 talk to you about the case. But they absolutely cannot
3 do so. You can -- you know, if they ask you procedural
4 matters like what time is court going to start in the
5 morning, you can tell them that. But, but you can't tell
6 them anything else about the court process, about the
7 facts of the case or anything involved in the case.

8 And you know, some of them might be aware of
9 previous trials. If they ask you something about how
10 long it took for another trial, you cannot discuss that
11 with them. You just -- no mention is to be made to them
12 of any previous trial.

13 Also, I'll ask each one of you not to make mention
14 of the case to anyone that you might encounter. That
15 might be a situation where the bailiffs -- I mean the
16 jurors might overhear you saying something.

17 And I'll just remind you that this is, you know,
18 somewhat going to be almost like babysitting, because
19 these jurors are going to be, to some extent, at your
20 mercy because they are going to have to depend on you to
21 take care of all the needs that they might have.

22 And I have very much extreme confidence that all of
23 you will attend to those duties as I've just directed.
24 If some issue comes up during the course of you waiting
25 on this jury that needs my attention, I do definitely
26 want you to come forward and let me know that.

27 I don't think there is anything else I need to say.
28 But if y'all have got anything else that you might want
29 to ask me --

1 BAILIFF: Me and Richard would not be
2 night-time bailiffs. There is one more bailiff. They're
3 not here.

4 THE COURT: The other night bailiff, I will
5 swear that person in at the appropriate time and instruct
6 them just as I have you.

7 Again, I appreciate your attendance to this jury and
8 that will be all.

9 If y'all will ask the jury to now come in.

10 (THE JURY RETURNED TO THE COURTROOM.)

11 (MR. EVANS AND MR. DEGRUY APPROACHED THE BENCH FOR A
12 BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE JURY. THE
13 BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED TO BE
14 TRANSCRIBED HEREIN.)

15 THE COURT: If there is any witnesses that are
16 going to be witnesses that would testify during the first
17 phase of the proceedings, you need to come forward and be
18 shown to a witness room. The rule is invoked. So if
19 anybody is a witness in the case, you need to be coming
20 forward.

21 And I take it we do not have any.

22 (THE TRIAL PROCEEDINGS CONTINUED. THE TRANSCRIPT RESUMES
23 WITH THE CALLING OF THE FIRST WITNESS.)

24 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
25 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
26 PROCEEDINGS WERE AS FOLLOWS:)

27 (THE JURY WAS PRESENT.)

28 THE COURT: Who would be the first witness from
29 the State?

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

EXCERPT OF THE TRIAL PROCEEDINGS HAD AND DONE IN THE ABOVE

STYLED AND NUMBERED CAUSE, BEFORE HIS HONOR, JUDGE JOSEPH H.

LOPER, JR., CIRCUIT JUDGE, FIFTH CIRCUIT COURT DISTRICT OF THE

STATE OF MISSISSIPPI, AND A JURY OF TWELVE MEN AND WOMEN, DULY

IMPANELED.

REPORTED BY OFFICIAL COURT REPORTER

TAMMY L. THOMAS, CSR, RPR (CSR NUMBER 1304)

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A-P-P-E-A-R-A-N-C-E-S

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Grenada, Mississippi 38902

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P-R-O-C-E-E-D-I-N-G-S

(THE FOLLOWING WAS HEARD IN OPEN COURT WEDNESDAY,
SEPTEMBER 24, 2009, IN MONTGOMERY COUNTY, MISSISSIPPI.)

MR. EVANS: Good morning, ladies and gentlemen.

There are only a couple times during the trial that we will actually be able to actually talk directly to you. The rest of the time we will be having to ask questions of the witnesses, but this phase of the trial and in closing arguments we will actually be able to talk to you and tell you things.

Now, I will be the first to tell you that what we say is not evidence. What I say or what the defense attorneys say is not evidence. What is evidence and what you are to consider is what comes from this witness stand over here and what physical evidence the judge allows. That's what we want you to look at, because that is what the law says you are to look at.

Now, I'm going to briefly go through what our case is going to prove. And I do that for one main reason. As you hear this case, you are going to hear bits and pieces from different witnesses. And it's easier to put that together as a big picture if I can give you kind of a road map at this point of what you are going to see.

Then as we put each witness on, you can say yes, he filled that part. Yes, he filled that part. Yes, he filled that part, until the puzzle is completely full and you see exactly what happened.

But what we are going to show you in this trial is that on the morning of July 16, 1996, right here in

1 Winona, there were four people murdered at Tardy
2 Furniture. They were all shot in the head with a .380
3 automatic pistol.

4 We will show you that the defendant, Curtis Flowers,
5 had been an employee in the store, and he had been let go
6 from the store because of an incident where he had
7 dropped some batteries off of a truck. We will show that
8 the store had held his paycheck because of that.

9 We will show that the murder weapon in this case is
10 a .380 automatic pistol that belonged to Doyle Simpson,
11 who was a relative and a close friend of this defendant.
12 We will show that by proof, because we will have an
13 expert come in and testify where this gun had been target
14 fired, those hulls matched the hulls found at the store.
15 So that's going to be uncontradicted proof that that is
16 the murder weapon.

17 We will show you that on the morning of the murders
18 this gun was in Doyle Simpson's car at Angelica Furniture
19 locked up in his glove compartment. We will show through
20 the witnesses that -- how Curtis Flowers got that gun.

21 We will have a witness that knew him that saw him
22 leaving from his house that morning. We will have a
23 witness that knew him that saw him walking down Angelica
24 Drive that morning. We will have a witness that knew him
25 that saw him standing beside the car that the gun was
26 stolen out of.

27 We have numerous witnesses that saw him walking on
28 Academy Street going from the direction of Angelica
29 Furniture, all of which knew him. And we will have

1 another witness that will testify that they saw him
2 running back to his house after that.

3 So it's not going to be a witness that says I saw
4 somebody I didn't know at one location. You are going to
5 have a long trail of witnesses that all had known him for
6 years, knew who he was, that can put out step-by-step,
7 just like on a map, his whole path going to get the gun.

8 We will also have witnesses that can do the same
9 thing on the trip to the store to commit the murders. We
10 will have a witness that knew him that saw him walk by
11 her house that morning. We will have another witness
12 that met him and talked to him that morning as he was
13 heading in the direction of the store.

14 We will have another witness that saw him talking to
15 someone and walking toward the front door of the store in
16 that direction. And we will have another witness that
17 knew him well that saw him at the back of the store
18 running away from the store. All of those folks, except
19 one, had known him for years. And we will show that to
20 you.

21 We will also, in addition to that, be able to show
22 you that on the day of the crime, approximately four
23 hours after the murder, that he had gunshot residue on
24 the back of his right hand, and he is right-handed. We
25 will also show you that the law enforcement officers
26 protected the scene and recovered bloody tennis shoe
27 tracks.

28 You will hear from an expert on shoe tracks that can
29 identify that track as being made by a Fila Grant Hill,

1 size 10 1/2 shoe. We will prove to you that the
2 defendant wore size 10 1/2 shoes, because we took a pair
3 off of him that day that were 10 1/2's.

4 We will also prove to you that in a search of the
5 house that he lived in there was a Fila Grant Hill 10 1/2
6 shoe box in that house. Those shoes were never accounted
7 for. So he had access to the shoes. We will also have
8 witnesses that can testify that they knew he wore Fila
9 Grant Hill tennis shoes during that time period.

10 There's other things that we'll go through, but
11 that, I think, will pretty well kind of give y'all a road
12 map of the direction that we are going. And as you go
13 through -- as we go through each of these, you can look
14 at it and in your mind you can say yes, he told me we
15 were going to prove this and yes, I remember him saying
16 that and that element we covered.

17 Thank you, Your Honor.

18 THE COURT: Mr. Carter.

19 MR. CARTER: Good morning.

20 We've been told all our lives that there is two
21 sides to every story. Everybody has heard that, and you
22 are going to hear it one more time from me. There is two
23 sides to this story too. I don't know where to begin.

24 The evidence will show that Mr. Flowers wasn't,
25 wasn't let go because he broke some batteries at Tardy's.
26 Some batteries certainly did get broke at Tardy's, the
27 evidence will show. But Mr. Flowers left the day before
28 the 4th and never went back.

29 And the evidence will show that there was no problem

1 with Mr. Tardy, Miss Tardy and Mr. Flowers because she
2 actually loaned him some money, gave him \$30 that she
3 never asked him to give her back.

4 And the 4th of July, he had a good time with his
5 family. He never showed back up. And he finally called
6 her after several days and asked if he still had a job,
7 and she said no. Well, that is why he wound up not
8 working there. She didn't fire him because of that.

9 Now, Mr. Evans also mentioned a witness saw him
10 standing by Doyle Simpson's car. The evidence will show
11 Mr. Simpson put that gun in his car the night before
12 that. Mr. Flowers had no idea the gun was in the car.

13 This person who supposedly saw Mr. Flowers standing
14 by the car was talked to at least two times, and she
15 never said she saw Mr. Flowers. She said she saw
16 somebody. She didn't call his name. She didn't know who
17 she saw. But at some point she said she saw Mr. Flowers.
18 But by that point, there was a reward out. As I
19 understand it, \$30,000.

20 The evidence will show that a reward of \$30,000 was
21 offered and then people start seeing a lot of things and
22 remembering that they had seen a lot of things.

23 This person supposedly saw Mr. Flowers running from
24 the store. Her own sister is going to come in and
25 testify that she couldn't have seen Mr. Flowers running
26 from the store because her sister was at her house all
27 day. So unless she has two bodies, she couldn't have
28 seen him.

29 Mr. Flowers -- evidence will show that Mr. Flowers

1 had only one particle of gunpowder residue on his hand.
2 Something you can't even see. You have to do a swab and
3 put it under some kind of microscope to see it.

4 And the evidence will show that you can get one
5 particles of gun powder on your hand from various means -
6 shaking somebody's hand, touching a desk, touching a pen
7 that had it on it or reacting with somebody that has
8 gunpowder residue on them.

9 This Fila -- the evidence will show this Fila box
10 and the shoes that made that footprint, Fila made over
11 600,000 pairs of that shoe that could have made that
12 footprint.

13 And we are going to have a person come in and
14 testify that she knows how the Fila box got in her house
15 and the shoes, because she bought them for her son who
16 wore that shoe.

17 Now, ladies and gentlemen, somebody certainly did go
18 into Tardy's and kill four people. And we are going to
19 have a guy to testify he saw two people near the store,
20 medium complexion. The evidence will show that Mr.
21 Flowers is not medium complexion, in my view.

22 And this person only got a glimpse of one of those
23 persons. And he certainly didn't say he saw anybody that
24 looked like Mr. Flowers for a while. He eventually said,
25 but it was a long period of time. And the evidence will
26 show that that particular identification has problems
27 with it.

28 The evidence will show that although there were
29 other stores in that area operating behind and to both

1 sides that nobody saw anything.

2 Now, the evidence will show that this testimony that
3 supposedly connected Mr. Flowers to commit these murders
4 is not reliable, is not trustworthy, is not credible.

5 Ladies and gentlemen, the evidence will show that
6 once these crimes occurred that the police showed up and
7 claim they saw various things. But the evidence is going
8 to show that lots of those things were never documented.
9 There is no statement made about what they saw, like it
10 should have been.

11 The evidence will show that there are several people
12 who claim they saw Mr. Flowers that morning, but the
13 evidence will show that each one of them gave Mr. Flowers
14 a different description of clothing or outerwear. The
15 evidence will show that if Mr. Flowers did all these
16 things these people say he did that he had to have
17 changed clothes five or six times.

18 The evidence will show that Doyle Simpson, who own
19 this car that the gun was taken from, was seen driving
20 somewhere on 82 or old 82, despite the fact that he
21 claims he never left the store that day.

22 I apologize. I don't want to miss anything.

23 We believe the evidence will show that there is a
24 fixation on Mr. Flowers from the outset, and that there
25 were little or no effort made to find other people, look
26 at other people and, and try to explain this horrible
27 crime in some other kind of way. That once this fixation
28 was on Mr. Flowers, the investigation stopped. And it
29 stopped rather quickly.

1 I believe the evidence will show that the
2 investigation was done in somewhat of a shoddy fashion
3 and that if the investigation was done in a shoddy and
4 unreliable way that the, the evidence is shoddy and
5 unreliable.

6 The evidence will show that in this particular case
7 there was a Jack -- initially there was Chief Hargrove
8 showed up to the scene, and he called Mississippi Highway
9 Patrol office. And as a result of that, Jack Matthews
10 and Wayne Miller showed up. And then the crime lab was
11 eventually called.

12 But the evidence will show that the initial officer
13 didn't make notes of who entered and exited the scene.
14 And various people went in and out of the scene, that the
15 scene was contaminated to some degree and there are other
16 explanations for how possibly footprints could have been
17 there and the fact that the evidence was disheveled in
18 some kind of way.

19 There will be a gentleman with respect -- a
20 gentleman by the name of Odell Hallmon to testify. If he
21 testifies, you pay -- we believe the evidence will show
22 that he is unreliable, that you can't believe him, that
23 he didn't see anything, doesn't know anything and is
24 making up things. But you be the judge of that.

25 Ladies and gentlemen, in the end all we ask is that
26 you listen to all the evidence, and we promise to follow
27 the rules and the laws of this nation. Thank you.

28 (THE TRIAL PROCEEDINGS CONTINUED.)

29 (THE TRANSCRIPT RESUMES WITH THE CLOSING ARGUMENTS HEARD

COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 61 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 21st day of July, 2009.

TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)

OFFICIAL COURT REPORTER

1882 Russell Road

Noxapater, Mississippi 39346

1 BAILIFF: Me and Richard would not be
2 night-time bailiffs. There is one more bailiff. They're
3 not here.

4 THE COURT: The other night bailiff, I will
5 swear that person in at the appropriate time and instruct
6 them just as I have you.

7 Again, I appreciate your attendance to this jury and
8 that will be all.

9 If y'all will ask the jury to now come in.

10 (THE JURY RETURNED TO THE COURTROOM.)

11 (MR. EVANS AND MR. DEGRUY APPROACHED THE BENCH FOR A
12 BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE JURY. THE
13 BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED TO BE
14 TRANSCRIBED HEREIN.)

15 THE COURT: If there is any witnesses that are
16 going to be witnesses that would testify during the first
17 phase of the proceedings, you need to come forward and be
18 shown to a witness room. The rule is invoked. So if
19 anybody is a witness in the case, you need to be coming
20 forward.

21 And I take it we do not have any.

22 (THE TRIAL PROCEEDINGS CONTINUED. THE TRANSCRIPT RESUMES
23 WITH THE CALLING OF THE FIRST WITNESS.)

24 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
25 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
26 PROCEEDINGS WERE AS FOLLOWS:)

27 (THE JURY WAS PRESENT.)

28 THE COURT: Who would be the first witness from
29 the State?

1 MR. EVANS: Chief Hargrove.

2 THE COURT: Chief, if you will come forward,
3 raise your right hand.

4 Do you solemnly swear or affirm the testimony you
5 give in this case will be the truth, the whole truth and
6 nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 THE COURT: Come around, please, and have a
9 seat.

10 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

11 For the benefit of the record, state your name,
12 please.

13 THE WITNESS: Johnny Hargrove.

14 MR. EVANS: Your Honor, if I may, I've asked
15 the court reporter to pre-mark a few exhibits. May she
16 have a minute to do that before we start?

17 THE COURT: That will be fine. Allow her to do
18 that.

19 MR. EVANS: May I proceed now?

20 THE COURT: You may.

21 JOHNNY HARGOVE, Called on behalf of the State, having
22 been duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION BY MR. EVANS:

24 Q. State your name for the jury, please.

25 A. Johnny Hargrove.

26 Q. And how are you employed?

27 A. Chief of police.

28 Q. And how long have you been the chief of police here
29 in Winona?

1 A. Probably 13 years now.

2 Q. Chief, were you holding the rank of chief back in
3 1996?

4 A. Yes, sir.

5 Q. Do you remember the morning of the murders at Tardy
6 Furniture?

7 A. Yes, sir.

8 Q. What were you doing that morning?

9 A. Patrol.

10 Q. Did you have an occasion to receive a call that
11 morning?

12 A. Yes, sir.

13 Q. What time?

14 A. About 10:21.

15 Q. What was the nature of that call?

16 A. People laying in the floor at Tardy Furniture.

17 Q. All right. Chief, if you would, speak up just a
18 little, because I want to make sure everybody can hear you.

19 A. Yes, sir.

20 Q. There were people laying in the floor at Tardy
21 Furniture.

22 A. Yes, sir.

23 Q. How long did it take you to arrive at the store?

24 A. About less than a minute.

25 Q. What did you do when you got to the store?

26 A. Pulled in front. I proceeded in the store.

27 Q. All right. Now, where in -- and I know most of us
28 know, but for the record, where in Montgomery County is Tardy
29 Furniture located?

1 A. It's in the city of Winona, county of Montgomery
2 County.

3 Q. All right. And on what street?

4 A. Front Street.

5 Q. When you arrived at the front of Tardy Furniture,
6 what did you do?

7 A. I proceeded in the store.

8 Q. Okay. How did you go in the store?

9 A. Through the front door.

10 Q. Okay. Was it open or closed, locked?

11 A. It was unlocked.

12 Q. Okay. When you went in the store, what was the
13 first thing that you noticed?

14 A. When I noticed Miss Bertha, she was laying in the
15 aisleway.

16 Q. All right. How far from you or from the door -- I'm
17 not trying to get you to give exact measurements at this time.
18 Was she at the front of the store, middle of the store, back
19 of the store?

20 A. She was almost to the back of the store.

21 Q. Almost to the back.

22 A. Yes, sir.

23 Q. Once you saw her in the floor, did it appear that
24 she was moving or not?

25 A. Not moving.

26 Q. What did you do next?

27 A. I proceeded on up towards her body.

28 Q. Okay. On the way to Miss Tardy's body, did you
29 notice anything else?

1 A. Yes, sir. That's when I noticed the rest of them
2 laying in the floor by the counter.

3 Q. All right. You said the rest of them. How many
4 people were laying in the floor?

5 A. Three.

6 Q. Who?

7 A. Four, including her.

8 Q. Who, who were those people?

9 A. Stewart. Miss Rigby. And Robert Golden.

10 Q. Were any of them still alive at that time, Chief?

11 A. Bobo Stewart was.

12 Q. Bobo Stewart was still alive.

13 A. Yes, sir.

14 Q. How could you tell that?

15 A. He was face down in the blood, gurgling, making a
16 gurgling sound.

17 Q. Speak up just a little. I am having trouble hearing
18 you.

19 A. He was laying face down making a gurgling sound in
20 the blood.

21 Q. Okay. First impression, what did it look like had
22 happened there, Chief?

23 A. Appeared to be shot.

24 Q. Okay. What did you do at that point?

25 A. At that point I backed back out the store.

26 Q. Okay.

27 A. And I went to my car, radioed for back-up and called
28 for Med Stat.

29 Q. And who is Med Stat?

1 A. That's ambulance agency.

2 Q. What did you do to protect the scene there, Chief?

3 A. We started -- after Med Stat got there, went back
4 in, and they got BoBo body, came out. We started roping the
5 scene off.

6 Q. Okay. Did you notice anything, any specific
7 evidence at the scene that you were attempting to protect?

8 A. Yes, sir. It was a bloody shoe mark.

9 Q. Where was the bloody shoe mark?

10 A. It was to the left by the ramp.

11 Q. And what could you tell about that bloody shoe mark?

12 A. It look like a tennis shoe mark.

13 Q. Okay. What did you do to protect it?

14 A. I started checking the EMT's and Barry and Mr. Sam
15 foot.

16 Q. Who is Mr. Sam?

17 A. He used to work at Tardy.

18 Q. Okay. Was he the one that found them?

19 A. Yes, sir.

20 Q. All right. Did -- you say you checked all of their
21 shoes. Did anybody's shoes that had been in the store that
22 morning match this tennis shoe track --

23 A. No, sir.

24 Q. -- that was left in the blood?

25 A. No, sir.

26 Q. And you personally checked all of them.

27 A. Yes, sir.

28 Q. Chief, had you ever seen anything like this before?

29 A. No, sir.

1 Q. What did you do at that point, as far as calling for
2 help and assistance?

3 A. Calling for help and assistance, what I did. After
4 we got him out, started roping the scene off. Then we called
5 for the highway -- investigator for the highway patrol and for
6 the crime scene -- crime lab to come.

7 Q. All right. So you requested investigators for the
8 highway patrol to assist in the investigation.

9 A. Also, the DA's office.

10 Q. The DA's office.

11 A. Yes, sir.

12 Q. I came down there and John Johnson.

13 A. Yes, sir.

14 Q. Investigator with my office came down there. Is
15 that right?

16 A. Yes, sir.

17 Q. And you requested that the crime, crime lab come up
18 and attempt to recover any evidence.

19 MRS. STEINER: Your Honor, I object to the
20 district attorney testifying. It goes even beyond
21 leading. If he wants to get on the witness stand, he can
22 be sworn and testify.

23 MR. EVANS: Your Honor, I'd love to get on the
24 witness stand, but I think all I'm doing is re-going back
25 over what he has stated.

26 THE COURT: Well, it is leading. So I will ask
27 you to refrain from that.

28 Q. (By Mr. Evans:) All right. I'll just ask it like
29 this. Why did you call the crime lab in?

1 A. For assistance.

2 Q. Okay. Who had the most experience in working crime
3 labs - your department or the crime lab?

4 A. The crime lab.

5 Q. Chief, once the investigation -- well, first let me
6 ask you this. What investigators with the Mississippi Highway
7 Patrol came to assist?

8 A. Wayne Miller and Jack Matthews.

9 Q. Wayne Miller and Jack Matthews.

10 A. Yes, sir.

11 Q. Do you remember the name of the person with the
12 crime lab that came up?

13 A. It was a female, but I forget her name.

14 Q. Would it have been Melissa Schoene?

15 A. Schoene. It was something like that.

16 Q. Okay. Once they were there, who was actually in
17 your mind at that point in charge of working the crime scene?

18 A. The investigator and the crime lab.

19 Q. Okay. What attempt, if any, Chief -- and I am going
20 to bounce around just a little. But what attempt, if any, was
21 there to interview people all over Montgomery County trying to
22 recover any information?

23 A. Well, the investigators and all done that.

24 Q. Okay. That would have been the ones that you've
25 mentioned.

26 A. Yes, sir.

27 (MR. EVANS SHOWED SOME PHOTOGRAPHS TO MR. DEGRUY.)

28 MR. DEGRUY: Your Honor, we have seen all of
29 the pictures that have been premarked. So just to move

1 things along, he is not going to show us each one
2 individually.

3 THE COURT: Okay. Can you go ahead and agree
4 to allow them to be admitted into evidence?

5 MR. DEGRUY: Yes, Your Honor.

6 THE COURT: Okay. I will allow them to go
7 ahead and be marked into evidence.

8 MR. EVANS: How about the charts? They are the
9 same ones from last time.

10 UNIDENTIFIED COURTROOM SPECTATOR: How about
11 turning that microphone out here?

12 THE COURT: We don't need any comments from
13 anyone in the audience.

14 MR. DEGRUY: Your Honor, may I approach for
15 just a moment?

16 (MR. EVANS AND MR. DEGRUY APPROACHED THE BENCH FOR A
17 BENCH CONFERENCE THAT WAS HAD OUTSIDE THE HEARING OF THE JURY.
18 THE BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED TO BE
19 TRANSCRIBED HEREIN.)

20 THE COURT: Ladies and gentlemen, it will take
21 a couple more minutes to mark these pictures. I will let
22 you step in the jury room for a few minutes and take a
23 short break while that is being done rather than having
24 to sit there having to be still.

25 (THE JURY LEFT THE COURTROOM.)

26 (A BREAK WAS TAKEN.)

27 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
28 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
29 PROCEEDINGS WERE AS FOLLOWS:)

1 (THE JURY RETURNED TO THE COURTROOM.)

2 THE COURT: Court will come back to order.

3 You may proceed, Mr. Evans.

4 MR. EVANS: Thank you, Your Honor.

5 Q. (By Mr. Evans:) All right. Chief, you have
6 described the scene that you saw there at Tardy Furniture when
7 you arrived. I want to hand you some photographs. First ones
8 I want to show you are Exhibits S-1, -2, -3, -4 and -5. If
9 you would, examine these and see if you can tell what they
10 are.

11 A. Pictures of downtown area.

12 Q. All right. And basically, what do those pictures
13 show in the downtown area?

14 A. One of them shows the side of the building on
15 Carrollton Street. One shows in front of the store. The
16 other one show in front of the store. One show up the street
17 from Tardy's. And the other one show the front of Liberty
18 Cash and Coast to Coast.

19 Q. All right. Chief, it's been a long time since 1996.
20 But do those pictures truly and accurately depict what that
21 downtown area looked like at the time of the crime?

22 A. Yes, sir.

23 Q. Chief, next I've got a group of pictures, and these,
24 I know, are not in order, but I want to call out the numbers -
25 Exhibit 12, 24, 21, 22, 30, 11, 18, 17, 25, 19, 16, 23, 10,
26 13, 15 and 20. And I'll ask you to look at these, if you
27 would.

28 A. (Complied.)

29 THE COURT: Chief, are you through looking at

1 them?

2 THE WITNESS: Yes, sir.

3 Q. (By Mr. Evans:) What do those photographs show,
4 Chief?

5 A. Showing the crime scene.

6 Q. And do those photographs that I've just shown you
7 show what you saw as you arrived in Tardy Furniture?

8 A. Yes, sir.

9 Q. All right. Chief, I want to show you some larger
10 diagrams and tell me if they are basically showing the same as
11 the small photographs. I'll first show you Exhibits 16-A,
12 17-A, 18-A and 19-A. Do those show the same as the
13 photographs that you've already identified?

14 A. Yes, sir.

15 Q. 15-A. 12-A. 13-A. And 14-A. Do these show the
16 same?

17 A. Yes, sir.

18 Q. Exhibits 1-A, 2-A, I think it's 3-, 4- and 5-A.

19 If you would, step down and look at these real quick
20 before I go any further.

21 A. (Complied.)

22 Q. Just skim through them and see if all of these show
23 the same photographs of the downtown area.

24 A. Yes, sir.

25 Q. All right. Chief, what I'd like to do, I want to
26 set this easel up in front of the jury where everybody can
27 see. Let me bring these around.

28 I'll ask you to step around with me.

29 A. (Complied.)

1 Q. All right. Chief, the first that I want to show you
2 is Exhibit 2-A. If you would, stand where everyone can see
3 this and tell the ladies and gentlemen of the jury what that
4 photograph is.

5 A. It's going to be in front of Tardy's.

6 Q. And can you see the front door of Tardy's from
7 there?

8 A. Yes, sir. It's going to be here.

9 Q. Is that the door that you went in when you arrived
10 at the store?

11 A. Yes, sir.

12 Q. Was there any other door opened at the store at that
13 time?

14 A. No, sir.

15 Q. Next I show you Exhibit 4-A, and I'll ask you if you
16 can describe what that is, Chief.

17 A. That's showing -- shooting to the north of the
18 building towards Coast to Coast from Tardy's.

19 Q. All right. Where would Tardy's be if it were
20 located in that photograph?

21 A. It's going to be down from this truck right here.

22 Q. Down to the left.

23 A. Yes, sir.

24 Q. Okay. And what is this area out in here, Chief?

25 A. That's going to be Front Street parking area.

26 Q. And how is the parking arranged in that area?

27 A. It's diagonal.

28 Q. Okay. And is there some parking in front of the
29 building and then some out from the buildings?

1 A. Yes, sir.

2 Q. How would you describe the parking that is out from
3 the buildings?

4 A. The parking out from the building, it's -- most the
5 people park is from cleaners and people parking at Tardy's.

6 THE COURT: Can you speak up a little? Can you
7 talk a little louder?

8 THE WITNESS: Yes, sir.

9 Q. (By Mr. Evans:) I'll next show you Exhibit 3-A and
10 ask you what this shows. And just because you are down here
11 close, you still need to speak loud.

12 A. That's going to be in front -- in front of Tardy's
13 and Liberty Cash.

14 Q. All right. And can you show me where Coast to Coast
15 is in that photograph?

16 A. Coast to Coast going to be here.

17 Q. Okay, Chief. Now, I'll next show you Exhibit 5-A.
18 If you would, tell the ladies and gentlemen of the jury what
19 that exhibit shows.

20 A. It's going to show Winona Dry Cleaners and the side
21 of Tardy's and Sta-Home Health.

22 Q. All right. And Chief, what street is this that goes
23 between Tardy's and the cleaners?

24 A. It's going to be Carrollton Street.

25 Q. And can you point out on that photograph where Tardy
26 Furniture is?

27 A. It's going to be right here.

28 Q. Okay. You are showing the right side of the
29 photograph.

1 A. Yes, sir.

2 Q. All right. One more of these, Chief. This is
3 Exhibit 11. Can you tell what this shows?

4 A. It's going to be Tardy Furniture here, dry cleaners
5 and Sta-Home agency.

6 Q. All right. And how about this area out in here,
7 Chief?

8 A. That's going to be a parking area.

9 Q. Is this the same middle parking area that you've
10 already described?

11 A. Yes, sir.

12 (THE EASEL HOLDING UP THE EXHIBITS ALMOST FELL OVER.)

13 Q. I've about overloaded it.

14 All right. If you would, just stand there a minute and
15 let me swap and get some others.

16 A. (Complied.)

17 MR. EVANS: Your Honor, we have -- we have
18 Exhibits 20-A, 21-A, 23-A and 22-A that we are offering
19 into evidence at this time.

20 MR. DEGRUY: Your Honor, just for the record,
21 we have previewed these and our Rule 403 motion objection
22 from earlier applies to these as well. But other than
23 that, we have no objection.

24 THE COURT: I'll allow them to be admitted.

25 (THE EXHIBITS PREVIOUSLY REFERRED TO AS STATE'S EXHIBITS
26 20-A, 21-A, 22-A AND 23-A FOR IDENTIFICATION WERE ADMITTED
27 INTO EVIDENCE.)

28 Q. (By Mr. Evans:) Chief, I'll now show you what
29 contains Exhibits 20-, 21-, 22- and 23-A. If you would, kind

1 of step where everyone can see.

2 A. (Complied.)

3 Q. Tell the jury what 21, 22 and 23 show.

4 A. Where Miss Bertha Tardy was laying.

5 Q. And do you see Miss Bertha Tardy in that photograph?

6 A. Yes, sir. (Indicated.)

7 Q. And you have described that you saw her down an --
8 in an aisle. Would you describe how that aisle goes from the
9 front of the store to where she was laying?

10 A. Okay. The aisle part is going to go this way from
11 where you come in from the front door.

12 Q. Okay. Now, there is also in 20-A something located
13 in it. Can you tell us what is in Exhibit 20-A?

14 A. That was her glasses.

15 Q. Miss Tardy's glasses.

16 A. Yes, sir.

17 Q. All right. Just set these down as we go so we don't
18 overload it again.

19 All right, Chief. Next I want to show you Exhibit 16-A,
20 17-A, 18-A and 19-A. What do these show?

21 A. This one over here show where Robert Golden was
22 laying. That is where Robert Golden was laying. That is
23 where Robert Golden was laying. And this is Miss Rigby here.

24 Q. All right. And from there can you describe, just
25 say on this diagram, Exhibit 16? Where is the front of the
26 store?

27 A. Front of the store is going to be back this way.
28 (Indicated.)

29 Q. What is this against his back?

1 A. Front of the counter. That's the big counter.

2 Q. Okay. And you said this is Mr. Robert Golden.

3 A. Yes, sir.

4 Q. And who is this lady?

5 A. Miss Rigby.

6 Q. Okay.

7 A. And this is where Bobo Stewart -- after Med Stat had
8 moved him, his hat was still there where he was laying.

9 Q. That is where you actually saw Bo-Bo Stewart laying
10 when you first went in the store where that puddle of blood
11 and the cap is.

12 A. Yes, sir.

13 Q. And who actually removed him from the store trying
14 to help him?

15 A. The EMT from Med Stat.

16 Q. All right. Chief, we'll probably have a better one
17 later, but just for relationship, can you show the ladies and
18 gentlemen of the jury the general area that you saw the bloody
19 tennis shoe tracks?

20 A. It's going to be right front where Bobo Stewart was
21 laying at. (Indicated.)

22 Q. And you're pointing to the area -- which is the
23 front of the store from there?

24 A. This the front of the store.

25 Q. Okay. You are pointing to the area in front of the
26 --

27 A. It's going to be down here. (Indicated.)

28 Q. To the left of the blood. Is that correct?

29 A. Yes, sir.

1 Q. All right.

2 THE COURT: Mr. Evans, I think we will recess
3 now for lunch.

4 Ladies and gentlemen of the jury, if you will, step
5 in the jury room just for a minute until -- you know, so
6 most everybody will be cleared out of the courtroom. And
7 then you will be allowed to be taken to lunch.

8 And so again, don't discuss this case with anyone or
9 among yourselves. And we'll be reconvening at 1:00 or
10 when you are brought back.

11 (THE JURY LEFT THE COURTROOM.)

12 Chief, you can be back at 1:00. Of course, you
13 can't discuss your testimony with anybody during this
14 recess.

15 (THE WITNESS LEFT THE COURTROOM.)

16 (PROCEEDINGS RECESSED FOR THE NOON.)

17 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
18 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT. THE
19 WITNESS WAS ON THE WITNESS STAND. PROCEEDINGS WERE AS
20 FOLLOWS:)

21 THE COURT: Bring the jury in.

22 (THE JURY RETURNED TO THE COURTROOM.)

23 Mr. Evans, you may continue.

24 MR. EVANS: Thank you, Your Honor.

25 Q. (By Mr. Evans:) Chief, do you know a person by the
26 name of Sam Jones?

27 A. Yes, sir.

28 Q. Who is Mr. Jones?

29 A. Mr. Jones was former employee with Tardy.

1 Q. And approximately what age is he?

2 A. I think around 80-something.

3 Q. About 88. Does that sound right?

4 A. Eighty-something.

5 Q. Did you see him that morning?

6 A. Yes, sir.

7 Q. Where did you see him?

8 A. After I came back out of the store, he was coming
9 down from Coast to Coast.

10 Q. Did you have an occasion to check his shoes that day
11 also?

12 A. Yes, sir.

13 Q. Did his shoes in any way resemble the tennis shoe
14 track that you saw?

15 A. No, sir.

16 Q. Did he tell you what he had seen?

17 A. He talked about after he came back out of the store.

18 Q. Okay. Chief, I want to show you Exhibit 108 and ask
19 you if you can identify what this is.

20 A. It's going to be city map.

21 MR. EVANS: Your Honor, I offer this exhibit
22 into evidence.

23 MR. DEGRUY: No objection.

24 THE COURT: I'll allow it to be admitted.

25 (THE MAP OF WINONA HAD PREVIOUSLY BEEN ADMITTED INTO
26 EVIDENCE.)

27 MR. EVANS: I would also offer Exhibit 117 into
28 evidence, which is just a smaller version.

29 MR. DEGRUY: No objection.

1 THE COURT: I'll allow it to be admitted as
2 well.

3 (THE SMALLER MAP OF WINONA PREVIOUSLY REFERRED TO AS
4 STATE'S EXHIBIT NUMBER 117 FOR IDENTIFICATION WAS ADMITTED
5 INTO EVIDENCE.)

6 MR. EVANS: Your Honor, may I have the witness
7 step down?

8 THE COURT: Chief, you may step down.

9 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

10 Q. Chief, I show you Exhibit 108, the city map. If you
11 will, just kind of point out to start with, where is Highway
12 51 on that map?

13 A. Highway 51 right here. (Indicated.)

14 Q. And you need to speak loud enough to where everybody
15 can hear you.

16 Can you point out approximately where Tardy Furniture is
17 located on that?

18 A. It's going to be right off Carrollton Street.

19 Q. And this is Carrollton Street that runs down this
20 direction. (Indicated.)

21 A. Yes, sir.

22 Q. All right. Do you see on that map where McNutt is
23 located?

24 A. McNutt. It's going to be -- McNutt is going to be
25 here. (Indicated.)

26 Q. All right. And how about Cade and Campbell Streets
27 from there?

28 A. This going to be Campbell Street here. It's going
29 to be Cade, this street right here. (Indicated.)

1 Q. Okay. And can you point out approximately where -
2 and I think it was called -- it may have been called Donnager
3 too - but where Angelica Drive is located?

4 A. Angelica Drive. It's going to be -- it's going to
5 be down off in here. (Indicated.)

6 Q. Okay. And would -- can you point out the
7 approximate area on this map where Angelica, the plant,
8 actually was?

9 A. The plant is going to be somewhere right in here.
10 (Indicated.)

11 Q. Okay. And Academy Street.

12 A. Academy is going to be... (Indicated.)

13 Q. All right. Academy runs which --

14 A. North and south.

15 Q. North and south.

16 All right. Thanks, Chief.

17 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

18 All right. Chief, we started going into a little bit of
19 this earlier. But can you -- can you describe approximately
20 how many shoe tracks you saw and how big of an area they were
21 in?

22 A. I seen one.

23 Q. Okay. And it was in the area close to where Bobo
24 Stewart was laying; is that correct?

25 A. That's correct.

26 Q. And what was done to -- you've testified that you
27 checked everybody's shoes. But to protect that actual print,
28 what was done?

29 A. Just made sure nobody didn't step over that way.

1 Q. Okay. And was the print protected?

2 A. Yes, sir.

3 Q. Were you present when anyone attempted to recover
4 that print by photographs or any other matters?

5 A. No, sir.

6 Q. Do you know who did that?

7 A. No, sir, I don't.

8 Q. And Chief, why did -- why did you feel that the
9 investigation should be handled by the Mississippi --

10 MR. CARTER: Object to leading.

11 Q. Why, why did you think the investigation should be
12 handled by the Mississippi patrol?

13 A. They are more experienced than we were.

14 Q. Chief, did anybody -- before the EMT's arrived, did
15 anybody do anything to move any of the four people there?

16 A. No, sir, they didn't.

17 Q. And I know that the photographs that we've got show
18 general areas, but can you describe basically what the inside
19 of Tardy Furniture is like?

20 A. It was -- it had a couple of aisleways, and
21 furniture was in it from front to back.

22 Q. Okay.

23 A. Just had displays of furniture.

24 Q. And the counter that you have talked about that's in
25 a picture, where was it located?

26 A. It's almost to the back of the store.

27 Q. Okay. And what is located at that counter?

28 A. They had where you pay and stuff like that, the
29 bills and all at that counter.

1 Q. Now, you said Miss Tardy was found in the aisle
2 closer to the back of the store.

3 A. Down from the counter.

4 Q. And what is actually located all the way in the back
5 of the store?

6 A. Office.

7 MR. EVANS: Your Honor, I --

8 Hold on just one second.

9 Q. (By Mr. Evans:) All right. Chief, did you see Sam
10 Jones when you first arrived?

11 A. No, sir, I didn't.

12 Q. All right. And you say when you walked out of the
13 store to call for help, where was he at that point?

14 A. He was walking down from Coast to Coast to my car.

15 Q. All right. Do you know why he went to Coast to
16 Coast?

17 A. I believe that is where he called, called in from.

18 Q. For 911.

19 A. Yes, sir.

20 MR. EVANS: Tender this witness, Your Honor.

21 CROSS-EXAMINATION BY MR. CARTER:

22 Q. Chief, how long had you been a police officer before
23 you became chief?

24 A. About nine years. Somewhere in there.

25 Q. About nine years.

26 A. Somewhere. Eight or nine. Somewhere.

27 Q. Eight or nine. Chief, I believe you were the first
28 person on the scene; is that correct?

29 A. Mr. Sam Jones was.

1 Q. You are the first police officer on the scene.

2 A. Yes, sir.

3 Q. Okay. And the first responder has a certain
4 responsibility, don't they?

5 A. Got to protect the crime scene.

6 Q. Is that all? What do you do after that?

7 A. What I did was protect the crime scene and turn it
8 over to investigators.

9 Q. Okay. Now, it took the investigators awhile to get
10 there; is that correct?

11 A. Yes, sir. It took them awhile. They had to drive
12 from Greenwood.

13 Q. So they got there about a hour after you. Is that
14 fair to --

15 A. It could be. I couldn't tell how long it took for
16 them to get there.

17 Q. Okay. Chief, do you know who those people are?

18 THE COURT: State for the record what exhibit
19 you are --

20 MR. CARTER: Okay. Thank you.

21 Exhibit -- is it S-T? 2-A. Am I looking in the
22 right place?

23 Q. Chief, this is the front of Tardy Furniture store;
24 is that correct?

25 A. That's correct.

26 Q. And there is some tape here. And tape is for the
27 purpose of, of securing off the crime scene area; is that
28 correct?

29 A. That's correct.

1 Q. Who are these people here?

2 A. I have to come down there and look.

3 Q. You can come down.

4 Do you mind if he come down?

5 THE COURT: You may step down.

6 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

7 A. I can't see the faces.

8 Q. Okay. Do you know who this car here on the left
9 belongs to?

10 A. That is Miss Tardy's.

11 Q. That is Miss Tardy's. Who does the jeep belong to?

12 A. I don't know who the jeep belongs to.

13 Q. Okay. And this here is the scene of Front Street;
14 is that correct?

15 THE COURT: Again, the exhibit number.

16 MR. CARTER: And this is Exhibit 54-A.

17 Q. (By Mr. Carter:) Now, there is a truck here; is
18 that correct?

19 A. That's correct. Belongs to Tardy's.

20 Q. Belongs to Tardy's. There is a car here.

21 A. That's going to be Miss Seales car that work at the
22 cleaners.

23 Q. Worked at the cleaners. Did you talk to her that
24 day?

25 A. No, I didn't talk to her.

26 Q. Okay. And whose car is that right there?

27 A. That is going to be Miss Armistead that work at the
28 cleaners.

29 Q. Okay. Did you talk to her that day?

1 A. No, I didn't.

2 Q. So you didn't get a statement from either one of
3 them.

4 A. No, sir.

5 Q. And you didn't ask them whether they had seen
6 anything strange or unusual that day; is that correct?

7 A. No, I didn't talk to any witnesses.

8 Q. Okay. There's a white car here. Do you know whose
9 car that is?

10 A. I don't know who that car belongs to.

11 THE COURT: And again, the exhibit number.

12 MR. CARTER: This is Exhibit 53-A.

13 MR. EVANS: Your Honor, I hate to interrupt,
14 but I think that is S-3-A.

15 MR. CARTER: I'm sorry S-3-A.

16 Thanks.

17 Q. (By Mr. Carter:) And Chief, what is this building
18 here?

19 A. That is going to be dry cleaners.

20 Q. Okay. And do you know who this vehicle belong to?

21 A. No, sir.

22 Q. And what about this one?

23 A. No, I don't know.

24 Q. What about the truck back here?

25 A. Nor the truck.

26 Q. Okay. I take that to mean -- did you interview or
27 talk to any of those people?

28 A. I didn't interview anybody.

29 THE COURT: What was that exhibit number?

1 MR. CARTER: This is Exhibit S-5-A.

2 Q. (By Mr. Carter:) You can have a seat, Chief. Thank
3 you.

4 A. (Complied.)

5 Q. Now, you didn't take any of those pictures; is that
6 correct, Chief?

7 A. That's correct.

8 Q. Now, I believe you testified you checked everyone's
9 shoes.

10 A. I checked everybody's shoes when we went in there
11 and when the EMT got the body.

12 Q. Okay. Now, did you -- you said you checked Mr.
13 Jones' shoes; is that correct?

14 A. That's correct.

15 Q. And you checked the three, EMT people came to the
16 scene; is that correct?

17 A. It was two EMT's, and then the owner of Med Stat.

18 Q. And then owner. And all three went in; is that
19 correct?

20 A. Yes.

21 Q. You checked all their shoes.

22 A. Yes, sir.

23 Q. Now, isn't it a fact that -- strike that. Did you
24 check the two EMT's shoes before they left the scene, or was
25 it checked later?

26 A. We checked them after they came out with -- when
27 they were coming out with him, after we seen the footprint,
28 they came back and we checked them.

29 Q. Before they left the scene.

1 A. That was before they left the scene. We started
2 checking everybody footprint.

3 Q. When you say "we", you mean who?

4 A. I think Barry. He was there when I was looking at
5 them. Barry Eskridge.

6 Q. Okay. You and Barry Eskridge. Y'all checked the
7 shoes.

8 A. I think Barry was there too when I was checking
9 them.

10 Q. Okay. Did you make any record of that, Chief?

11 A. No, sir, I didn't.

12 Q. Okay. Now, is it fair to say that documentation at
13 a crime scene is important and necessary and essential?

14 A. The documentation part of it and investigative part
15 of it, we are waiting on investigator to do all that. The
16 only thing we were doing was getting him out of there, getting
17 him to Tyler Holmes.

18 Q. Right. And you say "we", you mean EMT had got him
19 out of there and took him to Tyler Holmes; is that --

20 A. Yes, sir.

21 Q. And you didn't have to participate in that; right?

22 A. No, sir, I didn't.

23 Q. Now, when they went in to get the body, did you go
24 in with them?

25 A. Yes, sir.

26 Q. Were you in front of or behind them?

27 A. All of us went in together.

28 Q. Went in together.

29 A. Yes, sir.

1 Q. And no one was in front of the other one. Y'all
2 walked --

3 A. No. It is going to be you -- once you go down that
4 aisleway, you can't walk side-by-side now.

5 Q. Okay. Well, who, who was in the front? I know it
6 has been awhile.

7 A. If I ain't mistaken, I was.

8 Q. Okay. And what did you say to the EMT?

9 A. I told them that Stewart was still breathing.

10 Q. Okay. Is that it?

11 A. Yes, sir.

12 Q. Okay. And so I take that to mean you didn't tell
13 them to watch out for any prints; is that correct?

14 A. I -- we didn't see the -- I didn't see the print
15 until they started picking him up.

16 Q. Okay. So you had been in, Mr. Jones had been in
17 before any pictures of prints was taken; is that correct?

18 A. Yes, sir.

19 Q. And as a matter of fact, Mr. Evans, Mr. Johnson, Mr.
20 Matthews, Mr. Miller and several other people had been inside
21 the scene of the crime before the picture was taken; is that
22 correct?

23 A. I believe that is correct.

24 Q. Including Mississippi Bureau of Investigation. Is
25 that correct?

26 A. I believe that's correct.

27 Q. Now, Chief, is it -- is it fair to say that when you
28 come up on a crime scene that it's important for the first
29 person to get there to take certain measures because an

1 investigation, as time pass, is either for evidence to
2 evaporate, escape, if some person who is there who committed
3 the crime that it's best to look around and see if you find
4 any suspects rather quickly, if that is possible. Is it fair
5 to say that?

6 A. It's fair to say that.

7 Q. So if you got there like around 10:00, and Matthews
8 and Miller didn't get there until around 11-something, isn't
9 it fair to say that there should have been -- you roped off
10 the crime scene, which was good. But shouldn't there have
11 been some effort made to document what was seen?

12 Did you take any pictures?

13 A. No, sir, I didn't.

14 Q. Did you have an investigator at that time --

15 A. No, sir, I didn't.

16 Q. -- on your staff?

17 A. No, sir, I didn't.

18 Q. Didn't have one. Okay. The police force didn't
19 have an investigator. Is that what you are telling us?

20 A. Small town -- most of the small towns don't.

21 Q. Okay. So any time a crime occurred back at that
22 time, you would have -- for every single occasion you would
23 have called Mississippi Highway Patrol or some other agency.

24 A. On, on a single murder or something like that, we
25 just try to work it up. But you talking about four people.

26 Q. Okay.

27 A. You need more heads than what I had.

28 Q. So you did have someone who could have been doing
29 some preliminary investigation and some preliminary

1 documentation.

2 A. Yes, sir.

3 Q. Okay. But they didn't do it, did they?

4 A. No, sir, they didn't.

5 Q. And, and as far as documentation, you didn't make
6 any either, did you?

7 A. No, I didn't.

8 Q. And you didn't even do a statement about what you
9 saw and witnessed, a written statement; is that correct?

10 A. That's correct.

11 Q. Now, I believe as far as the footprints, you didn't
12 even see them the first time you went in; is that correct?

13 A. The first time, no.

14 Q. And when you did see them, did you find them on your
15 own or did somebody point them out to you? Or do you recall?

16 A. I looked over there and seen them.

17 Q. Okay. Now, when you came in that morning, you
18 didn't see anybody running from Tardy's or you didn't see
19 anything you considered unusual. Is that fair to say?

20 A. Yes, sir.

21 Q. Now, after you got there and you realized a crime
22 had been committed and you called Mississippi Highway Patrol
23 and the crime lab, which is a good thing to do, did you have
24 other officers from your force that actually show up and help
25 with the process?

26 A. No. The only thing my officer did was come and help
27 me secure the crime scene.

28 Q. Okay. How many did you have show up?

29 A. I had one from my staff. Then later on some more of

1 them started coming.

2 Q. Mr. Thornburg, who later became sheriff, also showed
3 up; is that right?

4 A. Yes, sir.

5 Q. Now, how long were you there before Mr. Evans and
6 Mr. John Johnson got there?

7 A. It wasn't too long before they got there.

8 Q. Now, once they got there, did you release the scene
9 to them, the crime scene to them to investigate?

10 A. The crime scene were released when some of their
11 people got there and Greenwood.

12 Q. Okay. So it wasn't released to Mr. Evans or Mr.
13 Johnson.

14 A. I don't know which, you know, which one it was
15 released to.

16 Q. Okay. Now, until somebody else got there, is it
17 fair to say you were in charge?

18 A. Yes, sir.

19 Q. Okay. And you remained in charge until Mississippi
20 Highway Patrol got there; is that correct? Is that fair to
21 say?

22 A. Until the investigators got there.

23 Q. Investigators were with the Mississippi Highway
24 Patrol Department.

25 A. Yes, sir.

26 Q. So you were in charge for about a hour. Is that
27 fair to say?

28 A. Yes, sir.

29 Q. And for being in charge for about an hour, did y'all

1 canvas the area and investigate to see if anybody had seen
2 anything unusual?

3 A. No. We don't -- what we did was secured the outside
4 of it and made sure didn't nobody go in there. Stuff like
5 that.

6 Q. Okay. That's all you did.

7 Okay. Now, I believe you said you talked to Mr. Jones;
8 is that correct?

9 A. He came back down to my car after I came back out
10 the store.

11 Q. And you talked to him before Mr. Matthews and Mr.
12 Miller got there. Is that fair to say?

13 A. He came -- yes, sir.

14 Q. Okay. Did you make a written statement of that?

15 A. No, sir, I didn't.

16 Q. Now, Chief, once the Mississippi Highway Patrol got
17 involved and the crime lab came -- and the crime lab was there
18 for a day, I believe, at Tardy Furniture. Is that fair to
19 say?

20 A. Yes, sir.

21 Q. And the crime scene got cleaned up that night. Is
22 that fair to say?

23 A. I think that blood wasn't cleaned up.

24 Q. Okay. And were you there when, when the crime scene
25 was disturbed or cleaned up or however you want to --

26 A. Cleaned up. No.

27 Q. You were not there. Who authorized that? Do you
28 know?

29 A. Right offhand, I don't.

1 Q. So, Chief, once you released the crime scene to the
2 Mississippi Highway Patrol, were you allowed to still
3 participate in the investigation of this crime?

4 A. The only thing my department did was assist.

5 Q. Was assist. And did you assist after the
6 Mississippi Highway Patrol got involved?

7 A. No. My officers -- most of my officers did.

8 Q. Most of your officers did.

9 A. Two of them. Somewhere in there.

10 Q. What did they do?

11 A. They --

12 Q. First of all, who were the two officers who
13 participated further?

14 A. I think it was Townsend and Vanhorn.

15 Q. Townsend. And what is the other one?

16 A. Vanhorn.

17 Q. Vanhorn. Okay. Now, Chief, for a while there, is
18 it fair to say that there were no suspects in this crime?

19 A. Yes, sir.

20 Q. And at some point a reward was offered. Is that
21 fair to say?

22 A. That's fair to say.

23 Q. And it was in the newspaper, and there was posters
24 around town, I believe. Is that fair to say?

25 A. I know posters. But I don't remember the newspaper.
26 I know posters.

27 Q. And the reward was like 30-grand, I believe. Is
28 that fair to say?

29 A. Yes, sir.

1 Q. Okay. After the reward was offered, people started
2 saying things and naming people. Is that fair to say?

3 A. Now, as far as talking to peoples, I didn't. The
4 investigators talked to them.

5 Q. Okay. Did you want to participate in that?

6 A. Sir.

7 Q. Were you -- did you desire to participate in talking
8 to witnesses?

9 A. What it was, when they take them in there and talk
10 to them and stuff like that, they had two, about two peoples
11 in there so I didn't go in.

12 Q. You could have if you wanted to.

13 A. Two investigators in there.

14 Q. You could have if you wanted or you felt like you
15 weren't allowed to participate in --

16 A. I didn't want to interrupt them, and they knew more
17 what they were doing than I did at the time.

18 Q. Okay. Now, John Johnson, was he -- was he working
19 for you? Was he a police officer?

20 A. No. He work for the DA's office.

21 Q. Okay. And you didn't deputize him or anything to
22 work on this case, did you?

23 A. No.

24 Q. Or make him a police officer, did you?

25 A. No, I did not.

26 Q. Now, based on what you are telling me, is it fair to
27 assume that you didn't really talk to any witnesses at all?
28 You didn't take any statements from anyone.

29 A. No, I did not.

1 MR. EVANS: Your Honor, this witness has
2 answered that at least four times.

3 THE COURT: I agree. That has been answered
4 several times. So move on.

5 MR. CARTER: Well, maybe I need to show that he
6 did.

7 Q. (By Mr. Carter:) For the record, what was the
8 answer? No?

9 A. No, I did not.

10 Q. Okay. As the police chief, although you didn't take
11 any statements from anybody, were you advised as the
12 investigation went on what was transpiring? In other words,
13 were you kept up with what actually was transpiring from time
14 to time?

15 A. Some, yes.

16 Q. Who, who kept you informed of that?

17 A. Vanhorn.

18 Q. Vanhorn. Okay. Is it fair to say that since you
19 didn't really make any notes that you have no way of knowing
20 exactly how many people entered that scene or -- and exited
21 that scene? Is that fair to say?

22 A. After -- you know, it's lots of officers started
23 coming in and going out, no, I didn't. No, I can't.

24 Q. And you didn't make any notation of the officers
25 that came in and out either, did you?

26 A. No, I did not.

27 Q. Chief, do you know if anybody who entered the crime
28 scene had on tennis shoes or not?

29 A. Tennis shoes.

1 Q. Um-hum.

2 A. No. I didn't see anybody with tennis shoes.

3 MR. CARTER: Hold on a minute. One moment.

4 I tender, Your Honor.

5 REDIRECT EXAMINATION BY MR. EVANS:

6 Q. Chief, I've just got a few things I want to go back
7 over with you. As the initial officer on the scene, you said
8 that it was your responsibility to protect the scene; is that
9 correct?

10 A. That's correct.

11 Q. Did you do that?

12 A. I did.

13 Q. Did you see to it that nobody messed with the bloody
14 shoe tracks?

15 A. I did.

16 MR. CARTER: Object to leading, Your Honor.

17 MR. EVANS: I am not asking for a certain
18 answer, Your Honor. I am just asking.

19 Q. (By Mr. Evans:) What, what all did you do in
20 relationship to the bodies, the bloody shoe prints, any hulls
21 or anything else found at the scene?

22 A. Preserved the crime scene.

23 Q. Do you have any special training in investigation,
24 Chief?

25 A. No, I didn't at the time.

26 Q. Okay. And why is it important that someone that
27 doesn't have proper investigation only protect the crime scene
28 until the trained investigators get there?

29 A. Keep from messing up the crime scene.

1 Q. Is that why you did it?

2 A. Yes, sir.

3 Q. Now, did I or the highway patrol or anybody else say
4 oh, Chief Hargrove, you can't have anything to do with this
5 case?

6 A. No, you did not.

7 Q. Did we work closely together?

8 A. We did.

9 Q. You were asked about did you deputize John Johnson.
10 John Johnson was already investigator for the State, was he
11 not?

12 A. That's correct.

13 Q. Working for the district attorney's office.

14 A. That's correct.

15 Q. And you worked with him plenty of times, haven't
16 you?

17 A. I have.

18 Q. Now, you were asked about it being a long time
19 before any suspects was picked up. Isn't it a fact that
20 Curtis Flowers was picked up four hours after the crime scene
21 was found and brought to the police department?

22 A. I believe it was, sir.

23 MR. EVANS: Nothing further of this witness,
24 Your Honor.

25 THE COURT: Chief, you may step down, return to
26 the witness room.

27 Who is the State's next witness?

28 MR. EVANS: Your Honor, this would probably be
29 a good place to read Mr. Sam Jones' testimony into the

1 record.

2 THE COURT: Counsel, if you will approach just
3 for a second.

4 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.
5 CARTER APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE
6 THE HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED
7 BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

8 THE COURT: Ladies and gentlemen, I want to
9 kind of explain what's fixing to take place.

10 A gentleman by the name of Sam Jones, Jr., he was an
11 older black gentleman. He at some point in the past has
12 given some testimony under oath concerning this case.

13 He is, due to advanced age and physical incapacity,
14 not able to testify anymore. So this testimony is going
15 to be read just as it was taken down at a previous
16 occasion.

17 And so, I believe, Mr. Blackmon with the district
18 attorney's office is going to sit here and read. But
19 when he is reading, he is reading as if it was Sam Jones
20 sitting there. These are the words that Sam Jones spoke,
21 and Mr. Blackmon will just be reading the words that Mr.
22 Jones spoke at a previous time. And you should consider
23 this testimony just like you would testimony of a live
24 witness that is actually appearing here in court.

25 Mr. Blackmon, you can come around.

26 And Mr. Jones, was under oath at that time he has
27 given his prior testimony.

28 (A PORTION OF THE TRANSCRIPT OF THE TESTIMONY OF MR. SAM
29 JONES, JR., WAS READ.)

1 (A PHOTOGRAPH WAS MARKED STATE'S EXHIBIT NUMBER 26 FOR
2 IDENTIFICATION.)

3 (MR. EVANS, MR. HILL, MR. DEGRUY AND MRS. STEINER
4 APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE THE
5 HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT
6 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

7 (A BREAK WAS TAKEN.)

8 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
9 CARTER, THE DEFENDANT AND MR. J.D. JOHNSON WERE PRESENT IN
10 JUDGE'S CHAMBERS FOR A HEARING. THE HEARING WAS REPORTED BUT
11 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

12 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
13 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
14 PRESENT. THE JURY WAS NOT PRESENT. THE PROCEEDINGS WERE
15 REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

16 (THE READING OF THE TRANSCRIPT OF THE TESTIMONY OF MR.
17 SAM JONES, JR., WAS COMPLETED.)

18 THE COURT: Who would be the State's next
19 witness?

20 MR. HILL: Mr. Barry Eskridge, Your Honor.

21 THE COURT: While they are getting him, if you
22 would, go ahead and provide the court reporter with the
23 transcript that was just read into evidence.

24 MR. HILL: If we could have a copy of this
25 transcript marked as the next number.

26 THE COURT: That will be fine. I just wanted
27 to make sure.

28 MR. HILL: For identification only.

29 THE COURT: Exactly.

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

EXCERPT OF THE PROCEEDINGS HAD AND DONE IN THE TRIAL OF THE
ABOVE STYLED AND NUMBERED CAUSE, BEFORE THE HONORABLE JOSEPH
H. LOPER, JR., CIRCUIT JUDGE, AND A JURY OF TWELVE MEN AND
WOMEN, DULY IMPANELED, ON THE 22ND, 23RD AND 24TH DAYS OF
SEPTEMBER, 2008.

REPORTED BY OFFICIAL COURT REPORTER
TAMMY THOMAS, CSR, RPR (CSR NO. 1304)

A-P-P-E-A-R-A-N-C-E-S

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1 (THE FOLLOWING WAS HEARD IN IN JUDGE'S CHAMBERS ON
2 SEPTEMBER 24, 2008. MR. EVANS, MR. HILL, MR. DEGRUY, MS.
3 STEINER, MR. CARTER AND THE DEFENDANT WERE PRESENT.)

4 THE COURT: We will go on record in chambers.
5 I really don't know what the --

6 MR. EVANS: Your Honor, I asked to see the
7 Court in chambers because of a matter that I have to
8 bring up that I don't think at this point needs to be
9 brought up in front of an audience.

10 I've got what I consider a very, very serious
11 matter. The third alternate, Miss Purnell, has extremely
12 lied to the Court and to the attorneys in this side
13 during voir dire.

14 By all accounts, she did not even know Curtis
15 Flowers. She did not know any of the family and had no
16 connections with him at all.

17 About an hour ago the circuit clerk told me that one
18 of the jurors, Tim Collins, a black male, that lives by
19 Miss Purnell was very concerned. He said that he felt
20 like he needed to bring it to someone's attention that
21 Miss Purnell was going with Curtis Flowers, that she had
22 been visiting him in the Carroll County jail.

23 And that three weeks ago the defendant's mother and
24 father were at her house visiting with her. And he said
25 it was after the jury summonses came out.

26 And for the Court's records, I will go ahead and
27 tell you that I have that juror here. And I also have
28 phone -- I have phone records from the Carroll jail that
29 I requested a few minutes ago, where there are at least

1 51 phone calls to her home number. And she is actually
2 listed on his visitation list.

3 And I would offer these to the Court and would ask
4 that in some form or fashion they be marked into the
5 record.

6 THE COURT: I'll allow it to be for --
7 obviously, this is not something that is going to go to
8 the jury. I will allow the court reporter to mark it
9 into evidence for identification.

10 MR. EVANS: I have seen a lot of instances
11 before, but I have never seen such a gross misconduct by
12 a juror as this one.

13 THE COURT: I want to hear from Collins, and
14 then we'll have Miss Purnell come in.

15 MR. EVANS: Yes, sir.

16 (MR. EVANS LEFT JUDGE'S CHAMBERS AND RETURNED WITH MR.
17 TIM COLLINS.)

18 THE COURT: For the record, you are Tim
19 Collins; is that correct?

20 MR. COLLINS: Yes, sir.

21 THE COURT: I want to place you under oath.

22 Do you solemnly swear or affirm the testimony you
23 give in this case will be the truth, the whole truth and
24 nothing but the truth, so help you God?

25 MR. COLLINS: I do.

26 MR. EVANS: Mr. Collins, the information that
27 you had given us, tell the Court what you know about Mary
28 Annette Fleming's connection with Curtis Flowers.

29 MR. CARTER: Fleming.

1 MR. EVANS: I mean Mary Annette Purnell.

2 MR. COLLINS: Just, just know she lived by me.

3 MR. EVANS: What did you tell me about her
4 visiting the Vaiden jail?

5 MR. COLLINS: That was my brother. He go with
6 her daughter.

7 MR. EVANS: That is where you knew that from.

8 THE COURT: Your brother dates Miss Purnell's
9 daughter.

10 MR. COLLINS: Yes.

11 MR. EVANS: That is how you knew she was
12 visiting him at the jail.

13 MR. COLLINS: Yeah.

14 MR. EVANS: I believe you also told me about
15 three weeks ago you saw the defendant's mother and father
16 pull up at her house, park and go inside.

17 MR. COLLINS: Yeah. My parents did.

18 MR. EVANS: You felt that was serious enough it
19 should be brought to someone's attention.

20 MR. COLLINS: Yeah. Um-hum.

21 MR. EVANS: How far down the street from her do
22 you live?

23 MR. COLLINS: Just around the corner.

24 MR. EVANS: Your Honor, I think at this point
25 that is --

26 THE COURT: Do y'all have any questions of Mr.
27 Collins?

28 MR. DEGRUY: No, Your Honor.

29 MR. CARTER: You said you saw her at the

1 Flowers' pull up or your parents saw her.

2 MR. COLLINS: Parents. My parents saw her.
3 They were sitting on the porch.

4 MR. CARTER: How do you know your parents saw
5 her?

6 MR. COLLINS: They told me. My brother go with
7 her daughter.

8 MR. CARTER: Okay. So you didn't see the
9 Flowers over there.

10 MR. COLLINS: Parents did.

11 THE COURT: Okay. Mr. Collins, I do very much
12 appreciate you coming forward and speaking this
13 information to the Court.

14 MR. COLLINS: Okay.

15 THE COURT: You are very much to be applauded
16 for bringing this to our attention. You have the thanks
17 of the Court.

18 You may go now.

19 MR. CARTER: I have one other question.

20 Your parents still living?

21 MR. COLLINS: Yes, they are.

22 MR. EVANS: Thanks.

23 MR. COLLINS: Thanks.

24 (MR. TIM COLLINS LEFT JUDGE'S CHAMBERS.)

25 THE COURT: I kind -- I honestly would rather
26 deal with this in open court.

27 MR. EVANS: I don't have a problem with it.
28 But frankly, I have never dealt with anything quite like
29 this. I didn't want to catch the Court so off-guard by

1 bringing it up without the Court having an idea of what
2 is going on.

3 Also, for the record, Your Honor, I would ask that a
4 copy of this page be introduced with those exhibits.
5 This is a copy of the phone book that also shows her
6 name, address and that same phone number.

7 THE COURT: Do we have anybody from the jail
8 that can verify that she signed in any logs of any kind?

9 MR. EVANS: This is --

10 THE COURT: I mean where she signed in
11 visiting.

12 MR. EVANS: I haven't gotten that far yet, but
13 I do have where he signed to put her on his visitation
14 list.

15 THE COURT: Okay. Let's just go out in the
16 courtroom and deal with it. I will have her brought...
17 (THE HEARING IN JUDGE'S CHAMBERS CONCLUDED.)

18 (MR. EVANS, MR. HILL, MR. DEGRUY, MS. STEINER, MR. CARTER
19 AND THE DEFENDANT RETURNED TO THE COURTROOM. PROCEEDINGS WERE
20 AS FOLLOWS. THE JURY WAS NOT PRESENT.)

21 THE COURT: I need just Number 70, Juror Number
22 70, Mary Annette Purnell, who is Alternate 2 to be
23 brought out. I have got some questions for her.

24 MR. EVANS: I think she is Alternate 3, Your
25 Honor, I believe.

26 THE COURT: It's third alternate. I'm sorry.
27 (JUROR MARY ANNETTE PURNELL ENTERED THE COURTROOM.)

28 THE COURT: Miss Purnell, if you will, come
29 around here.

1 (JUROR MARY ANNETTE PURNELL APPROACHED THE BENCH.)

2 THE COURT: I have had it called to the Court's
3 attention that you are on the visitation list at the
4 county jail to visit Mr. Flowers; is that correct?

5 JUROR MARY ANNETTE PURNELL: Yes, it is.

6 THE COURT: And you stated under oath yesterday
7 that you did not know Mr. Flowers, that you had never --
8 didn't know his family, didn't know anybody involved; is
9 that correct?

10 JUROR MARY ANNETTE PURNELL: Yes, sir, it is.

11 THE COURT: And we've got a log from the jail
12 where I think 60-something calls, I don't know, but a
13 number of phone calls from the county jail to your house
14 at your telephone number.

15 Can you explain how that happened?

16 JUROR MARY ANNETTE PURNELL: I received calls
17 from him and my nephew.

18 THE COURT: And you also -- I've been told that
19 Mr. Flowers' parents were visiting your home not more
20 than two or three weeks ago; is that correct?

21 JUROR MARY ANNETTE PURNELL: His parents?

22 THE COURT: Yes.

23 JUROR MARY ANNETTE PURNELL: No.

24 THE COURT: Well, Miss Purnell, I do find that
25 you perjured yourself under oath during the questioning
26 process. I am going to strike you off this panel at this
27 time, but I am also going to order that you be bound over
28 to the grand jury to await action to decide whether you
29 should be indicted for the crime of perjury.

1 I take perjury very seriously, and you -- it seems
2 crystal clear to this Court that you have, in fact,
3 perjured yourself. And so I am going to order that you
4 be jailed on a perjury charge.

5 I am going to set bond at \$20,000. But you are to
6 be held in the county jail until you post bond and until
7 the grand jury can decide whether to indict you for
8 perjury.

9 That will be all.

10 If you will take this individual into custody.

11 JUROR MARY ANNETTE PURNELL: May I get my
12 belongings out the room?

13 THE COURT: If she has got any belongings, have
14 --

15 THE BAILIFF: Okay.

16 THE COURT: That will be all.

17 JUROR MARY ANNETTE PURNELL: Do I wait?

18 THE COURT: You can wait. They will bring the
19 belongings to you.

20 (THE REMAINDER OF THE TRIAL WAS REPORTED BUT NOT
21 REQUESTED TO BE TRANSCRIBED HEREIN.)
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COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 10 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 31st day of June, 2009.

TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)
OFFICIAL COURT REPORTER
1882 Russell Road
Noxapater, Mississippi 39346

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

TRANSCRIPT OF A HEARING HELD IN JUDGE'S CHAMBERS ON SEPTEMBER
25, 2008, IN THE ABOVE STYLED AND NUMBERED CAUSE, BEFORE HIS
HONOR, JUDGE JOSEPH H. LOPER, JR., CIRCUIT JUDGE, FIFTH
CIRCUIT COURT DISTRICT OF THE STATE OF MISSISSIPPI.

REPORTED BY OFFICIAL COURT REPORTER

TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)

A-P-P-E-A-R-A-N-C-E-S

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1 (THE FOLLOWING WAS HEARD IN JUDGE'S CHAMBERS ON SEPTEMBER
2 25, 2008. MR. EVANS, MR. HILL, MR. DEGRUY AND MR. J.D.
3 JOHNSON WERE PRESENT.)

4 THE COURT: We will go on record.

5 MR. DEGRUY: We need to get Mr. Flowers in
6 here.

7 (MRS. STEINER, MR. CARTER AND THE DEFENDANT ENTERED THE
8 ROOM.)

9 THE COURT: Okay. I'll let the record reflect
10 Mr. Flowers is now present, as are all counsel that are
11 participating in the proceedings.

12 MR. DEGRUY: Your Honor, I wanted to bring to
13 the Court's attention and put on the record in this
14 matter, it relates to Juror Number 70, Miss Purnell. She
15 was excused yesterday for failing to answer or denying
16 that she knew Mr. Flowers on voir dire when asked about
17 it.

18 I went to the jail last night to discuss this
19 situation with Mr. Flowers and during the course of that
20 discussion he told -- he reminded me that he had given me
21 a note Tuesday evening after voir dire had concluded that
22 related to our attempts to strike the jury. He told me
23 at that time in our meeting last night that he had --
24 that he did tell me that he knew Miss Purnell.

25 I went back to the hotel room last night, found a
26 note. And the note, in fact, says - I think we are going
27 to make this note an exhibit for identification - Juror
28 Number 70 is a good juror. I really think we need to
29 fight for her. We must because she a good, honest person

1 whom I've known for a while now.

2 I had this note prior to the striking of the jury.
3 There is no question I had the note. I don't -- I don't
4 remember whether I read it. I was surprised last night
5 when he said in the note he had known her. But I checked
6 it and it does, in fact, say that.

7 And you know, that's, that's where we are on this.

8 THE COURT: Well, I appreciate you bringing
9 that to the Court. I'm satisfied that you didn't
10 intentionally allow a juror on without bringing it to the
11 Court's attention that she was not being truthful.

12 As far as I'm concerned, no further inquiry is
13 required as to this juror. And I will proceed with
14 testimony.

15 (THE HEARING IN CHAMBERS WAS CONCLUDED.)
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COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 5 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 6th day of July, 2009.

TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)
OFFICIAL COURT REPORTER
1882 Russell Road
Noxapater, Mississippi 39346

1 (A PHOTOGRAPH WAS MARKED STATE'S EXHIBIT NUMBER 26 FOR
2 IDENTIFICATION.)

3 (MR. EVANS, MR. HILL, MR. DEGRUY AND MRS. STEINER
4 APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE THE
5 HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT
6 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

7 (A BREAK WAS TAKEN.)

8 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
9 CARTER, THE DEFENDANT AND MR. J.D. JOHNSON WERE PRESENT IN
10 JUDGE'S CHAMBERS FOR A HEARING. THE HEARING WAS REPORTED BUT
11 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

12 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
13 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
14 PRESENT. THE JURY WAS NOT PRESENT. THE PROCEEDINGS WERE
15 REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

16 (THE READING OF THE TRANSCRIPT OF THE TESTIMONY OF MR.
17 SAM JONES, JR., WAS COMPLETED.)

18 THE COURT: Who would be the State's next
19 witness?

20 MR. HILL: Mr. Barry Eskridge, Your Honor.

21 THE COURT: While they are getting him, if you
22 would, go ahead and provide the court reporter with the
23 transcript that was just read into evidence.

24 MR. HILL: If we could have a copy of this
25 transcript marked as the next number.

26 THE COURT: That will be fine. I just wanted
27 to make sure.

28 MR. HILL: For identification only.

29 THE COURT: Exactly.

1 MR. DEGRUY: No objection.

2 MRS. STEINER: No objection.

3 THE COURT: That will be fine.

4 (THE TRANSCRIPT OF THE TESTIMONY OF MR. SAM JONES, JR.,
5 WAS MARKED STATE'S EXHIBIT NUMBER 127 FOR IDENTIFICATION.)

6 (THE WITNESS ENTERED THE COURTROOM.)

7 If you will come around, face the bench and take the
8 oath at this time.

9 Do you solemnly swear or affirm that the testimony
10 you give in this case will be the truth, the whole truth
11 and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE COURT: Come around, please, and have a
14 seat.

15 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

16 THE COURT: State your name for the record,
17 please.

18 THE WITNESS: Barry Eskridge.

19 THE COURT: You can proceed.

20 BARRY ESKRIDGE, Called on behalf of the State, having
21 been duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION BY MR. HILL:

23 Q. Good afternoon, Mr. Eskridge. Would you tell the
24 ladies and gentlemen of the jury how you are employed, please,
25 sir?

26 A. I am the owner of Med Stat Ambulance Service.

27 Q. How long have you been in that business?

28 A. About 27 years now.

29 Q. Were you in the same business back in July 1996?

1 A. Yes, sir.

2 Q. If I could, I'd like to direct your attention
3 specifically back to a certain day, that being July 16, 1996,
4 and ask you if that morning you got a call that you still
5 remember?

6 A. Yes, sir.

7 Q. Would you describe that call for the ladies and
8 gentlemen of the jury, what it was about and give us some
9 particulars of it?

10 A. Yes, sir. We received a call to respond to Tardy
11 Furniture Company on Front Street, Winona, to a -- initially
12 to an unknown call. But before we had arrived or at the time
13 that we arrived we realized it was some victims had been shot.

14 Q. Okay. Now, where was your business located at that
15 time?

16 A. We were at the -- behind the old bus station, which
17 is right near the intersection of Highway 51 and Summit
18 Street, Winona.

19 Q. And how far -- give us distance, if you can,
20 approximate distance of how far that is from Tardy Furniture
21 Company?

22 A. I'm guessing probably maybe a half a mile. It's
23 not, not very far.

24 Q. Okay. Do you recall what time you got that phone
25 call asking your -- asking you to respond to the Tardy
26 Furniture store?

27 A. I believe it was about 10:20 in the morning.

28 Q. Okay. Just to make sure I understand, 10:20 a.m.

29 A. Yes, sir.

1 Q. On the morning of July 16, 1996.

2 A. Yes, sir.

3 Q. Where were you at that time, Mr. Eskridge? Where
4 were you physically when the call came in?

5 A. We were in the ambulance station there at the -- we
6 had a trailer behind the police station, and we were all in
7 the trailer at the bus station.

8 Q. Sir, I'm going to -- I'm going to take just a minute
9 to ask you to speak loudly. We don't have a -- that
10 microphone there does not amplify your voice. I want to make
11 sure everybody can hear you. So if you will, kind of, up the
12 volume a little bit.

13 A. Yes, sir.

14 Q. Can you tell us about how long it took you from the
15 time you got the call to respond, to get over to Tardy's?

16 A. From the time that we were notified of the call,
17 considering the time getting out of the building and getting
18 in the ambulance, probably about two minutes. Maybe.

19 Q. Okay. And did you have any people that, that worked
20 with you, a crew that worked with you that responded with you?

21 A. Yes. I had an ambulance crew that was on duty,
22 paramedic Bo Owens. And the driver was Bruce Storey. And
23 they were the ambulance crew that responded, and I responded
24 along behind them.

25 Q. Okay. So you were in a separate vehicle.

26 A. Yes.

27 Q. Trailing immediately behind them.

28 A. Yes, sir.

29 Q. Would you tell us -- I want to take this kind of

1 slow. Tell us, if you will, when you drove up -- and I direct
2 your attention to State's Exhibit Number 2-A. That is this
3 big picture here that I'm holding up. Can you see that?

4 A. Yes, sir.

5 Q. Is this the photograph of the place that you went
6 to?

7 A. Yes, sir.

8 Q. When you got to that place, sir, would you just tell
9 the ladies and gentlemen of the jury from the time that you
10 left your station, followed your ambulance crew there,
11 everything that you did when you got to the store?

12 A. The ambulance responded first. And then I came
13 behind them in my -- actually, my personal vehicle at the
14 time. They were going lights and sirens, so I wasn't able to
15 travel as fast as they were since I was not in an emergency
16 vehicle. They got to the scene maybe 20, 30 seconds ahead of
17 me.

18 When I pulled up in front of the store, the paramedic had
19 already gone into the building. And my driver was at the rear
20 of the ambulance pulling the ambulance stretcher out and
21 getting the equipment. And I, I met up with him. And we both
22 went in together with the stretcher and the equipment and met
23 the paramedic.

24 Q. Now, as you went in the store, were you able to see
25 your -- which attendant was it that went in first?

26 A. Bo Owens. The paramedic.

27 Q. When you went in the store, were you able to see Mr.
28 Owens?

29 A. Yes, sir.

1 Q. What was he doing?

2 A. He was kneeling down beside Bobo Stewart.

3 Q. Okay. What was Mr. Stewart's condition?

4 A. He was alive, had a gunshot wound to the head. I
5 believe he was lying on his back, and he had some blood in his
6 airway. And Bobo was -- Bo Owens was trying to clear his
7 airway, trying to help him breathe.

8 Q. I showed you this picture, State's Exhibit Number
9 2-A, Tardy Furniture company. Tell us what city, what county
10 and what state that is located in, please.

11 A. Winona, Mississippi. Montgomery County.

12 MR. HILL: Court will indulge me just one
13 minute, Your Honor.

14 Q. (By Mr. Hill:) I'm going to direct your attention
15 to State's Exhibit 13-A, this photograph here that I'm
16 pointing to. Do you see that?

17 A. Yes, sir.

18 Q. Can you tell us whether or not that picture shows
19 the area where you found Mr. Bobo Stewart the morning that you
20 entered Tardy Furniture store?

21 A. Yes, it does. It does.

22 Q. I am going to ask, with the Court's permission, if
23 you would come down and point that out, please.

24 THE COURT: You may.

25 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

26 A. Mr. Stewart was lying right here, in this area right
27 here. (Indicated.)

28 Q. Okay. Now, what is the -- what is the item that is
29 shown in the lower left corner there?

1 A. It's a baseball cap.

2 Q. And do you see in the -- in the lower, left of
3 center, do you see --

4 MR. DEGRUY: Your Honor, we are going to
5 object. He, he is leading with the pointer. We would
6 just ask if he would let the witness tell us what he
7 sees.

8 Q. I'm pointing to the lower left quadrant of that
9 State's Exhibit 13-A. If you can, tell us what you see in
10 there, if anything, significant or unusual in the picture.

11 A. There was -- there was footprints that appeared to
12 be made in blood in this area right in here. (Indicated.)

13 Q. Okay. Thank you, sir.

14 A. There was also a couple of bullet casings. And, I
15 think, an unspent bullet was lying there as well.

16 Q. All right, sir. You can resume your seat on the
17 stand.

18 A. (Complied.)

19 THE COURT: If you are through referring to
20 that exhibit, take it down.

21 (MR. HILL REMOVED THE EXHIBIT FROM THE EASEL.)

22 Q. Mr. Eskridge, when you -- when you first pulled up
23 to Tardy's, who, if anybody, did you see before you went in?

24 A. My, my driver was at the ambulance getting the
25 equipment out. And there was an elderly man standing at the
26 front of the store, who I think they referred to as Mr. Sam,
27 who was standing outside also.

28 Q. Okay. Did you see any law enforcement officers
29 there?

1 A. Not outside the store. Chief Johnny Hargrove was in
2 there with my paramedic when we arrived.

3 Q. Okay. Okay. So, when you got there Chief Hargrove
4 and the paramedic had already entered the building.

5 A. That's correct.

6 Q. And you when walked in you saw them going up toward
7 Mr. -- where Mr. Stewart was.

8 A. That's correct.

9 Q. You have showed us where Mr. Stewart was and that
10 baseball cap there. Is that where -- is that the area that
11 was where his body was, where that baseball cap was?

12 A. Yes, sir.

13 Q. Were there any other victims in the store at that
14 time?

15 A. Yes, sir. There were three other victims in the
16 store as well.

17 Q. Could you tell us who they were, please?

18 A. I've since learned the names though. I didn't know
19 who they were at the time. But it was -- I believe it was
20 Carmen Rigby was lying beside Mr. Stewart. And then there was
21 another gentleman lying on the other side of Mr. Stewart. I
22 believe his name was Golden. And then towards the back of the
23 store was Miss Tardy.

24 Q. And did you -- did you check those other three
25 individuals?

26 A. I did.

27 Q. Mr. Robert Golden, Miss Bertha Tardy --

28 A. Yes, I did.

29 Q. -- and Miss Carmen Rigby.

1 A. Yes, sir.

2 Q. What did you determine when you checked them, Mr.
3 Eskridge?

4 A. They were all deceased.

5 Q. Had you ever had any occasion to be called to a
6 crime scene, emergency response to a crime scene before?

7 A. Yes, sir, quite a few.

8 Q. What, what experience was that?

9 A. Actually, for the ten years prior to that -- I had
10 just moved back to Winona. But from the ten years prior to
11 that I worked for the City of Jackson as a paramedic with
12 Jackson Fire Department for quite a period of time.

13 Q. In that training, were you -- did you become -- have
14 a heightened sense, awareness to physical evidence that might
15 be at the crime scene?

16 A. Yes, sir. We did quite a bit of training with
17 Jackson Police Department through crime scene seminars and so
18 forth. In fact, Bobo offered me -- I mean Bo Owens, who was
19 the paramedic was with me, actually was a paramedic at Jackson
20 fire as well.

21 Q. So Mr. Eskridge, how quickly after you got in the
22 store did you see the shoe tracks in blood? How quickly did
23 you notice that?

24 A. Immediate. We saw it as we were walking -- as we
25 were approaching the body.

26 Q. Okay. Now, it is fairly near to where -- well, I
27 guess, if I may, I am going to put this back up for just a
28 minute and ask you come back here just a minute if you would.

29 THE COURT: You may step down.

1 A. (Complied.)

2 Q. Mr. Eskridge, when your paramedic and yourself, your
3 crew, was there, I suppose that you were trying to extricate
4 Mr. Stewart as quickly as possible; is that right?

5 A. Yes, sir.

6 Q. Can you tell the ladies and gentlemen of the jury
7 about this bloody print shown in the lower, left quadrant of
8 State's Exhibit 13-A? We are interested or I'm interested,
9 rather, in whether or not any of your personnel stepped in any
10 of the blood that was there around any of the victims and left
11 that shoe track.

12 In other words, I'm asking you did you sir, step in any
13 blood there or did either one of your ambulance attendants,
14 your medical EMT staff or paramedic. Did either one of them
15 step in that? Or can you tell us?

16 Can you give us any first-hand, personal knowledge as to
17 whether that track was already there when you got in the
18 store?

19 A. As I approached the scene, Bruce Storey, my driver,
20 and myself came in together. I noticed the track before I
21 even got to the body. Chief Hargrove and, and Bo Owens had
22 walked in before us. And they were on the -- I think they
23 were on the other side over here, but I did not observe anyone
24 step in the blood.

25 And I know for a fact myself and Bruce Storey did not,
26 but I did not observe anyone.

27 Q. When you saw that track -- and you indicated a
28 minute ago in your testimony that you had sort of a heightened
29 sense of a awareness about evidence at a crime scene. When

1 you saw that track, did you call it to the attention of
2 anybody else?

3 A. I did. When, when we were approaching the, the
4 victims I saw the track. And I voiced out to everyone there
5 that there was some evidence. There was some bloody tracks
6 and shell casings. I, I actually instructed them don't go
7 near them, and no one did in my crew.

8 Q. Thank you, sir. You can...

9 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

10 Now, as sort of a, a double check on that, Mr. Eskridge,
11 do you know whether or not your shoes, your ambulance
12 attendants' shoes, chief's shoes, do y'all -- do you know
13 personally if any of those people's footwear, if any of their
14 shoes or footwear was checked to make sure that they didn't
15 have blood on them, that they did not have a pattern like that
16 that you saw on the floor in the store?

17 A. Yes, sir. My ambulance crews were checked pretty,
18 pretty immediately. As soon as the highway patrol
19 investigators, I believe, got there they called. And I think
20 some of the other law enforcement people called as soon as we
21 got to the hospital wanting to check our shoes. And they did
22 check my crew's shoes, as well as mine.

23 Q. I believe you've indicated that was within the hour.

24 A. Yeah. It was pretty quickly. They were pretty
25 quick to get on that.

26 Q. Okay. And did you have on any shoes? What kind of
27 shoes did you have on, sir?

28 A. I had boots on, actually, that had slick soles.
29 That when they looked at our shoes -- the pattern on the floor

1 was a very distinct, very clear pattern. And it didn't match
2 anything or even come close to looking like anything we were
3 wearing.

4 Q. And that goes for your personnel as well.

5 A. That's true.

6 Q. You indicated that you saw some firearms evidence.
7 Would you tell us what that was, please?

8 A. It was some spent shell casings. And I distinctly
9 remember there was one actual bullet there that hadn't been
10 fired that was laying on the floor.

11 Q. What -- where did your ambulance crew carry Mr.
12 Stewart?

13 A. Tyler Holmes Hospital. And then they later
14 transferred him on to University Medical Center in Jackson.

15 Q. Do you still remember what Miss Rigby looked like
16 when she was -- when you saw her?

17 A. Yes, sir. In fact, one of the things that I
18 remember about her, she still had her car keys that were
19 laying right there by her -- by her hand on the floor when we
20 got her. She was laying kind of -- well, it's in the picture,
21 but she was lying kind of prone with her face to one side just
22 before she -- before you got to Mr. Stewart. I noticed that
23 there was a set of car keys laying pretty close to her.

24 Q. Okay. I want to -- step down here, if you will,
25 please, sir, with the Court's permission.

26 THE COURT: You may.

27 A. (Complied.)

28 Q. I want to direct your attention, if I may, to
29 State's Exhibit Number 14-A, State's Exhibit Number 15-A and

1 State's Exhibit Number 12-A. If you can, will you tell us
2 what they show, please?

3 A. This is Miss Rigby here. That is the car keys
4 laying there by her hand. And I believe this may be a
5 photograph of the scene after she, maybe, had been removed.
6 This, again, is Miss Rigby here, again, with the car keys
7 there.

8 That is Mr. Golden. And this is the scene as you would
9 be approaching it coming from the front of the building. You
10 can see her feet sticking out from behind one of the couches.
11 And Mr. Stewart's head was here. His body was going toward,
12 toward that direction. That is where his cap was on his head.

13 Q. Okay. I want to also, if I may, while you are here,
14 sir, would you recognize Miss Tardy if you were to see some
15 photographs of her?

16 A. Yes, sir.

17 Q. I want to direct your attention, if I may, to
18 photograph 21-A, 22-A and 23-A. Would you tell us, if you
19 can, what those photographs show?

20 A. This is a picture of Miss Tardy where she -- where
21 she lay. And this is obviously another photograph of Miss
22 Tardy from her -- from her lower torso.

23 Where she was, if you come in the front of the store
24 passed the first of the bodies, that is an aisle that goes
25 toward the back. She was probably about midway to the back of
26 the store lying in the little, little corridor way.

27 I, I don't know. That is just a picture of a bed. I
28 don't recognize any of that.

29 That is another photograph of Miss Tardy as she lay

1 between the beds in the back.

2 Q. Thank you, sir.

3 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

4 Mr. Eskridge, after your crew took young Mr. Stewart to
5 the hospital, did you help Chief Hargrove do anything else in
6 the store?

7 A. Yes, sir. At the time we, we packaged Mr. Stewart
8 and got him out of there pretty quickly. Obviously, we knew
9 that it was a serious injury, and he needed to get to the
10 hospital.

11 At that time the only people at the store, after the
12 ambulance crew left, was myself and Chief Hargrove. It was
13 obvious that this was a major crime scene.

14 There was a lot of people gathering at the front of the
15 store, and there was no other law enforcement there, other
16 than Mr. Hargrove. So I, I stayed there with him to kind of
17 help him keep the door blocked and make sure a bunch of people
18 didn't come in.

19 But also, we didn't know -- there was a lot of question
20 about where Mr. Tardy was, because he is normally at the
21 store. So we didn't know if there were any other people in
22 the store. And we just made a quick sweep around the side of
23 the store and to the back office just to make sure that there
24 was one else in the store.

25 And then as we -- as soon as other law enforcement people
26 arrived, I left and went to the hospital with my ambulance
27 crew.

28 Q. While y'all were there, y'all prevented anybody else
29 from coming in.

1 A. Right. No one else came in while we were there.

2 MR. HILL: Tender the witness, Your Honor.

3 CROSS-EXAMINATION BY MR. DEGRUY:

4 Q. Good afternoon, Mr. Eskridge. I just want to
5 clarify one thing. You checked your own shoes while you were
6 at the store; is that correct?

7 A. I didn't check my shoes, my personal shoes at the
8 store, because I didn't -- I saw it before I even got to it.
9 But I didn't check any of my people's shoes at the store. No.

10 Q. Okay. Are you -- where were there -- where were
11 they when their shoes were checked?

12 A. At the hospital. And then I think we looked at them
13 again at the ambulance station. I believe the highway patrol
14 investigators met them at the hospital.

15 Q. Okay.

16 A. Or some of the law enforcement people met them at
17 the hospital.

18 Q. So it was the high -- some law enforcement --

19 A. It was the law enforcement --

20 Q. You didn't --

21 A. -- that checked their --

22 Q. You didn't --

23 A. -- shoes. It wasn't me.

24 COURT REPORTER: Judge, they are talking at the
25 same time.

26 THE COURT: Let him complete his answer
27 before...

28 THE WITNESS: Okay.

29 Q. (By Mr. de Gruy:) You did not check the shoes. The

1 law enforcement officers did.

2 A. I, I think both of us did. Afterwards, I -- we
3 looked just out of curiosity, just, just to see. But the law
4 enforcement people did go meet the ambulance crews, as well as
5 myself, and look at our shoes.

6 Q. And while you were at the scene you didn't --

7 A. No.

8 Q. -- check anybody's.

9 A. No.

10 MR. DEGRUY: That is all I have, Judge.

11 THE COURT: Any redirect?

12 MR. HILL: No, sir, Your Honor.

13 THE COURT: Is this witness excused and free to
14 go?

15 MR. EVANS: Yes, sir.

16 THE COURT: Mr. Eskridge, you may step down.
17 You are excused as a witness and free to go.

18 THE WITNESS: Thank you.

19 THE COURT: Who would be your next witness?

20 MR. EVANS: Dr. Hayne.

21 MR. DEGRUY: Your Honor, while they go get him,
22 can we approach the bench?

23 (MR. EVANS, MR. HILL AND MR. DEGRUY APPROACHED THE BENCH
24 FOR THE FOLLOWING BENCH CONFERENCE HAD OUTSIDE THE HEARING OF
25 THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED
26 TO BE TRANSCRIBED HEREIN.)

27 (MR. EVANS LEFT THE COURTROOM FOR A FEW MINUTES. UPON
28 HIS RETURN, THE PROCEEDINGS CONTINUED.)

29 (THE WITNESS ENTERED THE COURTROOM.)

1 MR. EVANS: Dr. Hayne has not been sworn yet.

2 THE COURT: If you will, face the bench and
3 raise your right hand.

4 (THE WITNESS APPROACHED THE BENCH.)

5 I will swear you in at this time.

6 Do you solemnly swear or affirm the testimony you
7 give in this case will be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do, Your Honor.

10 THE COURT: Come around and have a seat.

11 THE WITNESS: Thank you, sir.

12 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

13 THE COURT: State your name for the record,
14 please.

15 THE WITNESS: Steven Timothy Hayne, Your Honor.

16 THE COURT: You may proceed.

17 MR. EVANS: Thank you, Your Honor.

18 STEVEN TIMOTHY HAYNE, MD, Called on behalf of the State,
19 having been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION BY MR. EVANS:

21 Q. Good evening, Dr. Hayne.

22 A. Good afternoon, sir.

23 Q. Dr. Hayne, what is your profession?

24 A. I'm a physician working the fields of anatomic,
25 clinical and forensic pathology.

26 Q. Dr. Hayne, can you tell us if you had any dealings
27 with the case that the jury is here on today?

28 A. Yes, sir. I performed four post-mortem examinations
29 or autopsies.

1 Q. All right. Before we go into them, I want to cover
2 a few things. Now, based upon the jobs that you do, what type
3 of medical training and experience do you have that allows you
4 to perform the autopsies and examinations?

5 A. I graduated from medical school at Brown University,
6 receiving a medical degree. Then I did my pathology training
7 at Letterman Army Medical Center at the Presidio of San
8 Francisco, rotating at different institutions in the San
9 Francisco Bay area, including the medical examiner's office for
10 the city and county of San Francisco.

11 I have been practicing in the fields for some -- over 30
12 years now.

13 Q. As far as the field of forensic pathology, what is
14 that?

15 A. Subspeciality within the field of general pathology,
16 usually anatomic and clinical pathology, and essentially
17 addresses two basic questions - the determination of cause of
18 death, the determination of manner of death.

19 Cause of death is the medical reason that person died,
20 whether it be from cancer or heart attack. There are
21 literally thousands of possibilities.

22 The manner of death is the classification of the death
23 itself. It includes six different possibilities - suicide;
24 accident; homicide; natural; pending, in some cases until
25 additional information is gathered; in some cases
26 undetermined, when one cannot come to a final conclusion.

27 There are many other tasks within the field of forensic
28 pathology, but those are the two primary tasks.

29 Q. Dr. Hayne, those two categories determining the

1 manner and cause of death, approximately how many years have
2 you been doing that?

3 A. Over 30 years, sir.

4 Q. And have you been accepted in all the courts in the
5 state of Mississippi as an expert?

6 A. In each of the courts of Mississippi, even when they
7 have dual jurisdictions or two courthouses in the same county.

8 MR. EVANS: And Your Honor, at this time I
9 would go ahead and offer Dr. Hayne as an expert in the
10 field of forensic pathology.

11 MR. DEGRUY: We have no questions of this
12 witness, Your Honor.

13 THE COURT: I'll allow Dr. Hayne to testify as
14 an expert in that field.

15 Q. (By Mr. Evans:) Dr. Hayne, in this case did you
16 have an occasion to be requested to perform some autopsies?

17 A. I did, sir. I was requested.

18 Q. Who requested that?

19 A. By Skeeter Robinson, the deputy county coroner
20 medical examiner investigator acting for Montgomery County.

21 Q. Okay.

22 A. With the exception of one case, Mr. Stewart. And
23 that was requested by Carl Oliver, who was the county coroner
24 medical examiner investigator of Montgomery County, the county
25 of jurisdiction, in the death of Mr. Stewart.

26 Q. All right. And you did three of these on one date;
27 is that correct?

28 A. I did, sir.

29 Q. Which three were they?

1 A. I performed a post-mortem examination on Carmen
2 Rigby, also a post-mortem examination on Bertha Tardy, and
3 also a examination on the remains of Robert Golden. And those
4 were conducted on the 16th of July, the year 1996.

5 Q. And on what date was Derrick Stewart's performed?

6 A. That was performed some eight, ten days later. And
7 that was done and performed on the 23rd of July, 1996.

8 Q. Did you have an occasion to find out why that was
9 done at a later date?

10 A. I did, sir.

11 Q. What was that reason?

12 A. He received extensive medical intervention at the
13 University of Mississippi Medical Center for injuries
14 sustained, subsequently succumbing as a product of those
15 injuries, but not immediately.

16 Q. Okay. Dr. Hayne, before we get into specifics,
17 would you just in general terms describe for the ladies and
18 gentlemen of the jury what steps you take in preparing for and
19 performing an autopsy?

20 A. First step is to familiarize yourself with the
21 circumstances at the scene, and that is usually through the
22 county coroner medical examiner investigator or a
23 representative, and sometimes through law enforcement.

24 It is followed by an external examination looking at the
25 external surfaces of the body to see if there is any evidence
26 of disease or injury that may be a cause or a co-cause of the
27 death of that individual. There is collection of evidence
28 appropriate to that step and documentation of all the findings
29 on external examination.

1 That is followed by an internal examination, the third
2 step, by opening the body, looking at the different body
3 cavities and the organs that they contain to see, again, if
4 there is evidence of disease or injury that may participate in
5 the death of this individual. There is collection of evidence
6 appropriate to that step of the examination.

7 The fourth step, if there are differences from the scene
8 investigation as to -- as compared to the post-mortem
9 examination findings, an attempt is made to rectify those, if
10 possible.

11 There is a series of additional steps. And ultimately,
12 in compliance with the attorney general's ruling of this
13 state, one has to generate a formal, written report outlining
14 each step one undertook and also the findings during the
15 course of each part of the examination, ultimately concluding
16 with a cause of death and manner of death. That has to be
17 done in writing.

18 Q. All right. Dr. Hayne, I want to, in no certain
19 order, but we will just go through these individuals.

20 Let's take Miss Bertha Tardy first. Do you have your
21 notes on Miss Tardy?

22 A. I do, sir.

23 Q. Can you tell us briefly just from your visual
24 examination of Miss Tardy what you noted?

25 A. There was an obvious gunshot wound, Counselor. A
26 gunshot wound struck the decedent on the right side of the
27 head, and it exited near the left eye. That was the only
28 significant injury identified on the external examination of
29 Miss Tardy.

1 Q. Dr. Hayne, in performance of your work do you out of
2 common practice use photographs and diagrams?

3 A. I do, sir.

4 Q. And what is the purpose of that?

5 A. It's to provide photographic image documentation of
6 the findings and also the illustration, body diagram sheets,
7 an attempt to place certain findings on the illustration body
8 diagram sheets corresponding to those injuries identified on
9 the decedent in which the autopsy is being performed.

10 Q. All right. Would those photographs and diagrams
11 better enable the jury to understand what you were testifying
12 about?

13 A. I think they are illustrative, Counsel, and that
14 usually is helpful.

15 MR. EVANS: May I have one moment, Your Honor.

16 Your Honor, I have numerous exhibits - Exhibit 59
17 through 71, 72, 73, 74, 75, 86 and 87 that I would offer
18 all of these into evidence before I go further.

19 MR. DEGRUY: No objection, Your Honor.

20 THE COURT: I'll allow them all to be admitted
21 without objection.

22 (THE PHOTOGRAPHS PREVIOUSLY REFERRED TO AS STATE'S
23 EXHIBITS 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70 AND 71
24 WERE ADMITTED INTO EVIDENCE.)

25 (STATE'S EXHIBIT NUMBER 60 WAS NOT MARKED.)

26 (THE AUTOPSY DIAGRAM OF DERRICK STEWART PREVIOUSLY
27 REFERRED TO AS STATE'S EXHIBIT NUMBER 72 WAS ADMITTED INTO
28 EVIDENCE.)

29 (THE AUTOPSY DIAGRAM OF BERTHA TARDY PREVIOUSLY REFERRED

1 TO AS STATE'S EXHIBIT NUMBER 73 WAS ADMITTED INTO EVIDENCE.)

2 (THE AUTOPSY DIAGRAM OF CARMEN RIGBY PREVIOUSLY REFERRED
3 TO AS STATE'S EXHIBIT NUMBER 74 WAS ADMITTED INTO EVIDENCE.)

4 (THE AUTOPSY DIAGRAM OF ROBERT GOLDEN PREVIOUSLY REFERRED
5 TO AS STATE'S EXHIBIT NUMBER 75 WAS ADMITTED INTO EVIDENCE.)

6 (THE BULLET FRAGMENT IN A PLASTIC TUBE REMOVED FROM THE
7 BODY OF MRS. RIGBY PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT
8 NUMBER 86 WAS ADMITTED INTO EVIDENCE.)

9 (THE FRAGMENTED BULLET IN A PLASTIC TUBE REMOVED FROM THE
10 BODY OF ROBERT GOLDEN PREVIOUSLY REFERRED TO AS STATE'S
11 EXHIBIT NUMBER 87 WAS ADMITTED INTO EVIDENCE.)

12 Q. (By Mr. Evans:) All right. Dr. Hayne, I'll hand
13 you Exhibit 73, 57, 58 and 59 and ask you if you can identify
14 these please, sir.

15 A. I can, sir.

16 Q. What are those?

17 A. State's 73 through, inclusive, I guess it is a
18 multiple exhibit, includes the schematic diagrams of the
19 gunshot wound. It shows the entrance gunshot wound, as well
20 as the exit gunshot wound. And there is documentation as to
21 the characteristics of that wound.

22 In addition to that, it shows the brain and the injuries
23 to the brain itself, with additional information written on
24 the sheet. And it also shows a schematic of the skull after
25 it has been sectioned. And it shows the wound tract, as well
26 as the injuries to the base of the skull.

27 It also shows the -- a skeletal examination illustration
28 body sheet. And in that it shows the entrance and exit wounds
29 with the fractures about the left orbit; that is, around the

1 left eye.

2 And the last sheet is the ME17 form signed by Skeeter
3 Robinson requesting the post-mortem examination.

4 State's 58 shows the entrance gunshot wound on Mrs.
5 Tardy. That is near the right eye, centered a point 3 inches
6 below the top of the head, 3 1/2 inches forward.

7 And the State's 59, it is a view of the entrance gunshot
8 wound with an ABFO calibrated ruler. Like State's 58, the
9 area had been shaved to demonstrate more clearly the entrance
10 gunshot wound.

11 In State's 57 it shows the exit gunshot wound immediately
12 to the left of the left eye. There is bruising around the
13 right and left eyes. And that is a product of the gunshot.

14 MR. EVANS: Your Honor, may I -- I think the
15 best would be to take it one at a time. May I have the
16 witness step down with these exhibits?

17 THE COURT: Okay. You may step down.

18 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

19 Q. Dr. Hayne, Exhibits 58 and 59, would you try to hold
20 these to where the jury can see and, and tell them what those
21 two injuries are?

22 A. State's 58 and 59 shows the entrance gunshot wound
23 on the right side of the head. It has been shaved around the
24 entrance gunshot wound to demonstrate the entrance gunshot
25 wound site.

26 And there is a closer view in the photograph to the
27 right. And there is an ABFO ruler that is placed in
28 apposition to the entrance gunshot wound to demonstrate the
29 size of the entrance gunshot wound.

1 Q. All right. Before we go on, in Exhibit 73, the
2 charts -- is there a chart that shows that same wound?

3 A. It does, sir.

4 Q. Would you point that out and show it to the ladies
5 and gentlemen of the jury?

6 A. It shows the entrance gunshot wound on the right
7 side of the head and it goes down at a point 3 inches below
8 the top of the head, 3 1/2 inches forward from the back of the
9 head and slightly above and behind the external auditory
10 meatus of the right ear.

11 And it also shows the size of the entrance gunshot wound,
12 which was slightly less than 1/2 inch in the greatest
13 dimension. It also gives the trajectories and the lethality
14 of the gunshot wound.

15 Q. So basically, just right above the right ear.

16 A. Right above and slightly behind the center part of
17 the ear.

18 Q. All right. Dr. Hayne, Exhibit 57, if you would,
19 show that to the jury and tell them what it shows.

20 A. State's 57 shows the exit gunshot wound on the left
21 side of the face, to the left of the left eye. And that is
22 found at a point 4 inches below the top of the head, 2 1/2
23 inches to the right from the -- or to the left from the middle
24 of the face.

25 There is also the discoloration around both the right and
26 left eyes, more pronounced about the left eye. And that is a
27 product of the gunshot wound.

28 Q. And also on Exhibit 73, does this page of Exhibit 73
29 show exactly where this wound is?

1 A. It does, sir.

2 Q. Would you demonstrate that?

3 A. It shows the exit gunshot wound merely to the left
4 of the left eye. And it is centered at a point 4 inches below
5 the top of the head, 2 1/2 inches to the left of the middle of
6 the face. There is also some checkmarks indicating bruising,
7 and that is a product of the gunshot wound.

8 Q. All right. Dr. Hayne, while you have that exhibit
9 in your hand, does it also show the tract or path that the
10 bullet took?

11 A. It does, sir, in the succeeding pages.

12 Q. Would you show that to the jury and show them what
13 path the bullet took from the entrance point to the exit
14 point?

15 A. It shows the bullet going through the brain, going
16 from right to left, going slightly downward 5 to 10 degrees
17 and also going back to front at approximately 40 to 50
18 degrees.

19 In the skull diagram, the marked trajectory of going from
20 right to left and front to back is illustrated by the line
21 coursing through the skull where it's exiting near the left
22 eye.

23 Q. All right.

24 A. In the full skull, it shows the entrance gunshot
25 wound on the right side of the head exiting on the opposite
26 side of the face, on the left side, near the left orbit.

27 Q. Okay. Thank you, Dr. Hayne.

28 If you would, just take your seat again for just a
29 minute.

1 A. (Complied.)

2 MR. EVANS: Your Honor, while I proceed with
3 these others, may I pass the ones that he has just
4 demonstrated to the jury through the bailiff?

5 THE COURT: You may.

6 (THE EXHIBITS WERE HANDED TO THE BAILIFF.)

7 Q. Dr. Hayne, before I go on to another one of the
8 victims -- with Miss Tardy, was there any physical evidence
9 recovered from Miss Tardy, such as a projectile, fragment or
10 anything like that?

11 A. No, sir. No projectile was recovered from the
12 decedent.

13 Q. Would this be what you would classify as basically a
14 through and through wound?

15 A. Through and through. A perforating wound where the
16 bullet entered the body then exited the body.

17 Q. All right. And Dr. Hayne, do you have an opinion
18 with reasonable medical certainty as to the cause and manner
19 of death of Mrs. Bertha Tardy?

20 A. I do, sir.

21 Q. What is that opinion?

22 A. Cause of death is a gunshot wound to the right side
23 of the head. And the underlying cause of death is cranial
24 cerebral trauma - that is, fractures to the skull and injuries
25 to the brain. Manner of death I ruled homicide.

26 Q. Dr. Hayne, next, if you would, I would like for you
27 to refer to your notes on Mr. Robert Golden. I will hand you
28 Exhibits 75, 71, 70, 69, 68, 67, 66, and 65 and ask you to
29 review these, please.

1 A. Yes, sir.

2 Q. If you would, take those, as you did before, by
3 number and tell us what they are.

4 A. State's 65 is a facial identification photograph of
5 the decedent, Mr. Golden.

6 State's 66 shows one of two entrance gunshot wounds,
7 specifically the entrance gunshot wound striking the
8 decedent's left ear. And there is also tattooing about the
9 entrance gunshot wound indicating that the weapon was in close
10 proximity to the decedent's head when the weapon was
11 discharged.

12 State's 67 in view is the exit gunshot wound behind and
13 slightly above the right ear, corresponding to the entrance
14 gunshot wound to the left ear.

15 State's 68 shows entrance gunshot wound over the top of
16 the head of the decedent, slightly to the left of the midline
17 of the head. And the, the gunshot wound side has been
18 partially shaved to demonstrate the site of the entrance
19 gunshot wound.

20 State's 69 is another view of the entrance gunshot wound
21 to the left, top of the head.

22 State's 70 shows the entrance gunshot wound to the top of
23 the head with an ABFO calibrated ruler before the hair had
24 been shaved.

25 State's 71 shows the entrance gunshot wound striking the
26 front part of the left ear. And in view is part of the
27 tattooing, Counselor.

28 State's 75 shows the body illustration diagrams of one
29 gunshot wound - that is, the gunshot wound to the left ear,

1 exiting on the right side of the head, shows a lateral view or
2 side view. It also shows a frontal view for trajectory.

3 It also shows the injuries to the brain. And it also
4 shows the fractures of the skull, both the cranial vault at
5 the top of the skull, the skullcap, as well as the base of the
6 skull. And it also shows the trajectory.

7 Q. All right. Dr. Hayne, before we actually get into
8 going through each of those, would you tell us, as you did
9 with Miss Tardy, what you examined when you physically
10 examined Mr. Golden?

11 A. There was a complete examination, Counselor,
12 external and internal, looking at the different body surfaces
13 of the decedent to see, again, if there was evidence of injury
14 or disease, recording that, collecting evidence appropriate to
15 that step.

16 Followed by an internal examination going through all the
17 major body organs after opening the body cavities, again, for
18 the purposes of identifying injury and ruling out disease, any
19 significant disease, also, collection of evidence appropriate
20 to that step.

21 Q. All right. As far as just the physical examination
22 of the external body, what did you observe?

23 A. There were two significant findings, Counselor.
24 There was a through and through gunshot wound or perforating
25 gunshot wound. One of which struck the front part of the left
26 ear at a point 5 inches below the top of the head, 4 inches
27 forward from the back of the head. That entrance gunshot
28 wound was slightly irregular in configuration.

29 There was also tattooing or unburnt powder striking the

1 skin leaving a discoloration to the skin as it penetrated
2 superficially into the skin. The tattooing measured 5 inches
3 on the vertical axis by 4 inches on the horizontal axis.

4 It was further noted that there was an exit gunshot wound
5 on the right side of the head, which was found at a point 4
6 inches below the top of the head, 1 1/2 inches forward from
7 the back of the head. And the trajectory was determined to be
8 from, of course, left to right, also, traveling upward at
9 approximately 5 degrees and traveling to the back at
10 approximately 10 to 20 degrees.

11 Now, those were the significant findings to the -- to one
12 gunshot wound on the external surface.

13 There was also a second gunshot wound that was identified
14 on the top of the head, slightly to the left of the midline,
15 found at a point 2 1/2 inches forward from the back of the
16 head. And that entrance gunshot wound was noted to result in
17 a downward trajectory of the projectile traveling, of course,
18 from top to bottom, going left to right at approximately 10 to
19 15 degrees and also traveling from back to front at
20 approximately 30 to 40 degrees.

21 Q. All right. So he was actually shot how many times?

22 A. We see two gunshot wounds, sir.

23 Q. And did you, in fact -- the Exhibits 65 through 71
24 and 75, did you record your findings through those photographs
25 and diagrams?

26 A. I did, sir. Of course, State's 75 only has
27 illustrations for one gunshot wound - that being the gunshot
28 wound to the left ear - but does not include the gunshot wound
29 to the top, left of the head.

1 Q. Do you have a copy of the other diagram with you?

2 A. I do, sir.

3 MR. EVANS: One moment, Your Honor.

4 Your Honor, I'm not sure where the other one is at
5 this point. We would ask that Dr. Hayne be able to
6 testify from his other diagram and that we be allowed to
7 make a copy to substitute into the file. And so that he
8 may have his original back.

9 THE COURT: Any objection to that procedure?

10 MR. DEGRUY: No, Your Honor.

11 THE COURT: That, that will be allowed.

12 Q. (By Mr. Evans:) If you would, pull that part out of
13 your file, Dr. Hayne.

14 A. (Complied.)

15 MR. EVANS: And I guess for clarity, since it's
16 not going to be attached with the other, I would ask that
17 it be marked 75-A, Your Honor.

18 THE COURT: That will be fine.

19 (THE AUTOPSY DIAGRAM OF ROBERT GOLDEN WAS MARKED STATE'S
20 EXHIBIT NUMBER 75-A AND ADMITTED INTO EVIDENCE.)

21 MR. EVANS: Your Honor, may I have the witness
22 step down?

23 THE COURT: You may step down.

24 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

25 Q. (By Mr. Evans:) Dr. Hayne, I'll let you determine
26 the order to go through these. But as you go through the
27 photographs, make sure you state into the record which
28 photograph you are referring to.

29 A. Yes, sir.

1 Q. You may proceed.

2 A. State's 67 was an identification photograph of the
3 decedent.

4 State's 66 shows the entrance gunshot wound in the front
5 part of the left ear, and you can see the small little areas
6 of discoloration on the left side of the face. That's the
7 tattooing or unburnt fragments of powder striking the
8 decedent's face.

9 State's 71 shows the entrance gunshot wound on the front
10 part of the left ear. There is also tattooing. It's a closer
11 view. And there is an ABFO calibrated ruler to document the
12 size of the entrance gunshot wound.

13 State's 67 shows the exit gunshot wound corresponding to
14 the entrance gunshot wound on the left ear. And this is
15 located above and behind the right ear.

16 State's 68 shows the entrance gunshot wound to the top of
17 the head of the decedent, which is a second gunshot wound.

18 And State's 69 is a slightly closer view of that with the
19 hair subtotally shaved.

20 And State's 70 is an ABFO calibrated ruler placed at that
21 site prior to shaving the top of the head.

22 Q. All right. I'll hand you next Exhibit 75 and ask
23 you if you would take it and show exactly from your diagram
24 where the entrance and exit wounds for that gunshot were
25 located.

26 A. Entrance gunshot wound is located on the left ear at
27 a point 5 inches below the top of the head and at a point 4
28 inches forward from the back of the head. The exit gunshot
29 wound is located on the right back of the head at a point 4

1 inches below the top of the head, 1 1/2 inches forward from
2 the back of the head.

3 Q. While we are on that diagram, you have described
4 tattooing. And I think you have marked it on your diagram; is
5 that correct?

6 A. That's correct, sir.

7 Q. Would you point out where the tattooing is located?

8 A. Tattooing is generally centered about the entrance
9 gunshot wound, and it measures in extent 5 inches on the
10 vertical axis, 4 inches in extent on the horizontal axis.

11 Q. What is tattooing?

12 A. Tattooing is unburnt fragments of powder that leave
13 the muzzle of a weapon when the weapon is discharged and fired
14 and will carry out to a distance and impinge upon the target
15 area, usually up to a foot and a half to 2 1/2 feet.

16 Q. Okay. Do you have a diagram that shows the tract or
17 path of that particular gunshot?

18 A. Yes, sir. I show the trajectory traveling from left
19 to right, entering, exiting, traveling upward. Also, I have a
20 tract going through the brain, showing it is going -- and this
21 is reverse. It's going from the left side to the right side.
22 And of course, it's going from front to back.

23 Q. Okay.

24 A. There is one other tract that is shown, Counselor.
25 That is through the skull. It traveled basically through the
26 base of the skull, though extending to the cranial vault
27 focally. And it is traveling obviously from left to right.

28 Q. That particular gunshot, was, was there any, any
29 remaining bullet or fragment from it? Or was it through and

1 through?

2 A. It was a perforating, through and through gunshot
3 wound. I recovered no bullet or bullet fragments.

4 Q. All right. Exhibit 75-A, the wound -- the gunshot
5 wound to the top of the head, is that the diagram of it?

6 A. It is, Counselor.

7 Q. Would you point out to the ladies and gentlemen of
8 the jury where the entrance wound was?

9 A. The entrance gunshot wound is on the top, left side
10 of the head at a point 2 1/2 inches forward to the back of the
11 head.

12 Q. Okay. And do you have a diagram or diagrams that
13 show what path that bullet took?

14 A. I do, sir.

15 Q. Would you cover them, please?

16 A. It is showing it traveling from the top going
17 markedly downward at approximately 30 to 40 degrees and
18 traveling to the left.

19 Q. Okay. That particular bullet, did it exit?

20 A. It did not exit, sir. It fragmented into multiple
21 pieces of copper jacket and lead core.

22 Q. Were you able to recover some of those fragments?

23 A. I was, sir.

24 Q. You can have a seat for a minute.

25 A. (Complied.)

26 Q. I will now show you Exhibit 87 and ask you if you
27 can identify this, please.

28 A. I can, sir. A lot of marking has been rubbed off.
29 I can still identify it.

1 Q. What is Exhibit 87?

2 A. It's a -- it's actually a series of items,
3 Counselor. There is a evidence transportation bag indicating
4 there is a bullet from the gunshot wound from Mr. Golden. And
5 inside it is a plastic carrying case that has been sealed,
6 like the evidence bag, though subsequently opened, indicating
7 in markings that I placed on there that it is a bullet from
8 the gunshot wound.

9 And inside the plastic tube are fragments of copper
10 jacket and lead core recovered from the gunshot wound to the
11 top of the head of the decedent, Mr. Golden.

12 Q. And those are the fragments that you recovered from
13 the wound where Mr. Golden was shot in the top of the head.

14 A. That's correct, sir.

15 Q. What steps did you take to reserve those fragments?

16 A. They were washed, dried, wrapped in paper, placed in
17 a plastic test tube that was identified and sealed. And then
18 placed in a evidence bag that was also identified and sealed.

19 Q. And who was it sealed by?

20 A. I did it.

21 Q. And what, if anything, did you do with that exhibit
22 after you recovered it and sealed it into evidence?

23 A. It was transported under chain of custody to the
24 Mississippi Crime Lab to the firearms division.

25 Q. And did you make any requests? Or did you just at
26 that point submit it?

27 A. I submitted it. Usually I request for possible
28 comparison studies and also documentation of the caliber of
29 the projectile.

1 Q. All right. Dr. Hayne, as far as Mr. Robert Golden,
2 do you have an opinion with medical -- with medical certainty
3 what the manner and cause of death was to him?

4 A. I do, sir.

5 Q. What is that opinion?

6 A. Mr. Golden died from two gunshot wounds. One
7 gunshot wound striking the left ear and exiting the right side
8 of the head. A second gunshot wound striking the top left of
9 the head, entering the head but not exiting the body,
10 producing cranial cerebral trauma, fractures of the skull, as
11 well as injuries to the brain.

12 I ruled the manner of death as homicide.

13 Q. Dr. Hayne, and I know we, we use different terms at
14 times, but have -- do you use terms as far as lethal and
15 non-lethal for some wounds?

16 A. I do, sir.

17 Q. As far as these two wounds, would -- what -- how
18 would you classify each of these?

19 A. Each would be lethal independent of the other.

20 Q. So either shot would have killed him.

21 A. Yes, sir.

22 Q. Okay. As far as --

23 Well, that's all on that point, Your Honor. Your Honor,
24 before I go into the next one, I would ask to pass the
25 photographs and diagrams that Dr. Hayne has just testified to
26 to the jury.

27 THE COURT: You may.

28 Q. (By Mr. Evans:) Dr. Hayne, I would like for you to
29 refer to your notes on Miss Carmen Rigby, if you would.

1 A. Yes, sir.

2 Q. As far as the examination of Miss Rigby, would you
3 tell us as far as your -- just observations of external
4 examination.

5 A. There are two types of injuries, Counselor. There
6 were abrasions and contusions, which were scrapes or bruising
7 of the body, small in size, located over the left forehead and
8 left cheek, larger in size located over the front surface of
9 the right shoulder and also the right arm and extending to the
10 right forearm.

11 The bruises measured up to approximately 10 -- or
12 approximately 4 inches, 10 sonometers at that site. And the
13 abrasions or the scrapes of the skin located over the anterior
14 surface of the right shoulder measured approximately 1 1/2
15 inch.

16 As I indicated, the abrasions over the left side of the
17 face were much smaller, measuring approximately 1/16 to 1/8 of
18 an inch.

19 In addition to that, there was evidence of a single
20 gunshot wound. An entrance gunshot wound was identified over
21 the left back of -- or the right back of the head of the
22 decedent. It was centered at a point 3 inches below the top
23 of the head, 1 inch to the right from the midback of the head.

24 There was also an exit gunshot wound, and that was
25 located at a short distance on the right back of the head,
26 behind the right ear at a point 3 1/2 inches below the top of
27 the head, 1 1/4 inches forward from the back of the head
28 indicating that the projectile had traveled basically a
29 very -- a fairly short course through the decedent's head.

1 Q. All right. And again, Dr. Hayne, did you have an
2 occasion to photograph and draw diagrams of your findings?

3 A. I did, Counselor.

4 Q. I'll hand you Exhibits 61, 62, 63, 64 and 74 and ask
5 if you examined these, please, sir. And also, while we are at
6 it, go ahead and examine 86, if you would.

7 A. Yes, Counselor.

8 Q. Dr. Hayne, do those photographs and diagrams
9 accurately show what you observed when you were examining Miss
10 Rigby?

11 A. They do, Counselor.

12 Q. How many times was Miss Rigby shot?

13 A. Miss Rigby was shot one time, sir.

14 MR. EVANS: Your Honor, may I have the witness
15 step down with these exhibits?

16 THE COURT: You may.

17 A. Counselor, you want me to bring this too?

18 Q. Not at -- well, not at this time. You can just
19 leave it up there for now.

20 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

21 Dr. Hayne, if you would, again taking the photographs
22 first, if you will, go through them and call them out by
23 number and tell the jury what each shows and show them to the
24 jury.

25 A. State's 62 shows one of the injuries on the right,
26 upper extremity consisting of a bruise located on the right
27 forearm, the anterior surface just below the antecubital fossa
28 where the fold is.

29 State's 61 essentially is a composite photograph. It

1 shows the entrance gunshot wound on the right back of the
2 head. It also shows the exit gunshot wound in the shape of a
3 horseshoe on the right back of the head.

4 State's 63 shows the entrance gunshot wound on the back
5 of the head, slightly to the right from the midline. Again,
6 there is a ABFO calibrated ruler documenting the size of the
7 entrance gunshot wound.

8 State's 64 shows the exit gunshot wound on the right back
9 of the head. You can see it is almost horseshoe shaped. And
10 there again, there is an ABFO calibrated ruler documenting the
11 size of the exit gunshot wound.

12 Q. All right. And do you have diagrams that show more
13 clearly where these were located on Miss Rigby?

14 A. I do, sir.

15 Q. Would you go through them and point out first where
16 the entrance and exit gunshot wounds are located?

17 A. The entrance gunshot wound is located on the back of
18 the head, slightly to the right of the midline. And the exit
19 gunshot wound is located on the right back of the head, behind
20 the right ear.

21 Q. And do you have diagrams that show the path or tract
22 of that bullet?

23 A. I do, sir. The best diagram, Counselor, is the
24 diagram of the skull. The bullet entered the head, deflected
25 markedly to the right. The bullet fragmenting, producing a
26 unusual type of a entrance gunshot wound called a key-hole
27 injury, where there is both internal and external beveling
28 forcing both fragments, bullet fragments into the brain.

29 Q. Were you able to recover any of the fragments in

1 this case?

2 A. I was, sir.

3 Q. All right. You may have a seat.

4 A. Thank you. (Seated on the witness stand.)

5 Q. Do you also have an exhibit with you up there that
6 is the fragments that you recovered from Miss Rigby?

7 A. I, I do have that, sir.

8 Q. Can you tell us what number that is, exhibit number?

9 A. That is State's 86, sir.

10 Q. What does State's 86 contain?

11 A. State's 86 has an evidence bag that was sealed. The
12 information is nearly illegible, though still partially
13 readable. And it indicates it's from Miss Rigby, and it is a
14 bullet from the gunshot wound.

15 Inside is a plastic carrying case - hard plastic, that
16 is. And it has more legible information on it indicating
17 that's the bullet from Miss Rigby. It also has the date and
18 my initial on it. Inside that there is a piece of paper.
19 There is also bullet fragments located there.

20 Q. Okay. In that plastic container, are the fragments
21 that you recovered from Miss Rigby's brain present?

22 A. That's correct, sir.

23 Q. What steps did you use to preserve those fragments?

24 A. Fragments were washed, dried, wrapped in paper,
25 placed in a hard plastic container, labeled, taped and sealed
26 and placed in an evidence bag, labeled and sealed and then
27 transmitted to the firearms division of the Mississippi crime
28 lab in Jackson.

29 MR. EVANS: All right. Your Honor, again, I

1 would ask to pass the photographs and diagrams of Miss
2 Rigby to the jury as we continue.

3 THE COURT: You may.

4 Q. Dr. Hayne, I will now ask you to refer to your notes
5 on Derrick Stewart, if you would. All right. Dr. Hayne, on
6 what day did you examine Derrick Stewart?

7 A. The examination was conducted on the 23rd of July,
8 1996.

9 Q. Again, as we've done before, what were your initial
10 observations from external surface?

11 A. The examination of the external surface of the
12 decedent, on external examination that is, there was evidence
13 of a single gunshot wound, a gunshot wound that entered the
14 back of the head, exiting near the bottom of the right side of
15 the forehead.

16 Entrance gunshot wound was located at a point 3 inches
17 below the top of the head, one inch to the left of the midback
18 of the head. And it was also located at a point 5 inches
19 above and behind the left ear.

20 There was an exit gunshot wound, irregular in outline,
21 measuring slightly less than 1 inch in the greatest dimension.
22 It was located at the level of the right eyebrow, centered at
23 a point 5 inches below the top of the head, 1 1/4 inches to
24 the right of the -- of the mid-part of the face.

25 Q. And you have stated earlier that you had been
26 advised of medical intervention in this case. Was there
27 evidence of medical intervention there?

28 A. There was, Counselor.

29 Q. What was that?

1 A. Specifically, there was evidence of puncture sites
2 where fluid had been withdrawn from the decedent and, and also
3 administered to the decedent. There was also a suture
4 material covering both the entrance and the exit gunshot wound
5 sites.

6 Q. Did you on this particular occasion also use
7 photographs and diagrams to preserve your findings?

8 A. I did, sir.

9 Q. Dr. Hayne, I will show you Exhibits 53, 54, 55, 56
10 and 72 and ask that you examine these, please.

11 A. Yes, Counselor.

12 Q. Would you tell us what each of those exhibits are?

13 A. State's 66 -- may I reverse that, Counselor? May I
14 go the other way?

15 State's 53 shows the entrance gunshot wound on the back
16 of the head. There is an ABFO calibrated ruler to document
17 size. The area has been previously partially shaved, and
18 there is black suture material placed there by medical
19 personnel.

20 State's 65 -- or State's 54 shows the entrance gunshot
21 wound after the areas been more completely shaved during the
22 course of the autopsy. And again, the black suture material
23 is present.

24 State's 55 shows the exit gunshot wound in the area of
25 the right eyebrow and the lower part of the right side of the
26 forehead. And again, there is black suture material placed by
27 medical personnel prior to the post-mortem examination or
28 autopsy.

29 State's 56 is another view of the exit gunshot wound.

1 And again, one can readily see the placement of sutures by
2 medical personnel.

3 State's 72 shows evidence of old injuries. There is also
4 on another sheet shows medical intervention.

5 On a third sheet it shows bruising about the right and
6 left eyes, as a product of the gunshot wound. Another sheet
7 shows the downward -- slightly downward trajectory of the
8 projectile as it travels from back to front.

9 And the last sheet shows the entrance gunshot wound on
10 the back of the head slightly to the left of the midline and
11 the exit gunshot wound over the lower part of the right side
12 of the forehead, also encompassing the right eyebrow.

13 MR. EVANS: Your Honor, may I have Dr. Hayne
14 step down with these exhibits?

15 THE COURT: He may.

16 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

17 Q. Dr. Hayne, if you will, again, take the photographs
18 first, call them out by number and show them to the jury and
19 tell the jury what each shows.

20 A. State's 53 shows the entrance gunshot wound to the
21 back of the head. The area had been -- the hair had actually
22 been cut by medical personnel, and there are sutures in the
23 wound itself placed by medical personnel prior to the autopsy.
24 And there is an ABFO calibrated ruler documenting the size of
25 the entrance gunshot wound.

26 State's 54 shows the entrance gunshot wound after the
27 area had been more completely shaved at the time of autopsy.
28 And it also shows the sutures in the wound placed by medical
29 personnel.

1 State's 55 shows the exit gunshot wound over the lower
2 right side of the forehead, and it has been sutured by medical
3 personnel.

4 State's 56, again, shows the exit gunshot wound at a
5 slightly greater distance where there are sutures placed by
6 medical personnel bringing the exit gunshot wound to
7 apposition.

8 Q. Dr. Hayne, do you have diagrams that show these
9 findings?

10 A. I do, sir.

11 Q. Do you have a diagram that shows the entrance and
12 exit wounds?

13 A. Yes, Counselor.

14 Q. Would you -- what exhibit are you referring to,
15 number?

16 A. This is State's 72.

17 Q. Will you show the ladies and gentlemen of the jury
18 the entrance and exit wounds on the diagram?

19 A. The entrance gunshot wound is on the back of the
20 head, slightly to the left of the midline at a point 3 inches
21 below the top of the head, 1 inch to the left.

22 The exit gunshot wound is over the lower part of the
23 right side of the forehead and part encompassing the right
24 eyebrow, found at a point 5 inches below the top of the head
25 and centered at a point 1 1/4 inches to the right of the
26 mid-center part of the face.

27 Q. Do you have diagrams that show what tract or path
28 this bullet took?

29 A. I do, sir. The entrance gunshot wound struck the

1 back of the head, traveling slightly downward, exiting on the
2 area of the right eyebrow and lower right portion.

3 Q. Thank you, sir.

4 A. Yes, sir.

5 May I sit down, sir?

6 Q. Yes, sir. Please.

7 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

8 MR. EVANS: May I pass these to the jury, Your
9 Honor?

10 THE COURT: You may.

11 Q. Dr. Hayne, do you have an opinion as to a degree of
12 reasonable medical certainty what the cause and manner of
13 death of Derrick Stewart was?

14 A. I do, sir.

15 Q. What is that opinion?

16 A. Mr. Stewart died from a gunshot wound to the back of
17 the head. The underlying cause of death was cranial cerebral
18 trauma.

19 There were other significant pathologic findings.
20 Specifically, there was evidence of respiratory disease, as a
21 product of the injury, to include adult respiratory distress
22 syndrome or ARDS and also bronchial pneumonia, infection of
23 the lungs.

24 Q. How many time was Mr. Stewart shot?

25 A. Stewart received a single gunshot wound, sir.

26 Q. Did that gunshot wound cause his death?

27 A. It did, sir.

28 Q. Dr. Hayne, I think I've covered this one issue, but
29 I am just going to ask this one question in case I didn't with

1 anyone.

2 Did all four of these victims die as a result of their
3 gunshot wounds?

4 A. They did, sir.

5 MR. EVANS: Your Honor, I will tender Dr.
6 Hayne.

7 MR. DEGRUY: We have no questions, Your Honor.

8 THE COURT: Dr. Hayne, you may step down. You
9 are free to go, excused as a witness.

10 THE WITNESS: Thank you, sir.

11 (THE TESTIMONY ON THIS DATE, WEDNESDAY, SEPTEMBER 24,
12 2008, WAS CONCLUDED.)

13 (COURT WAS DULY OPENED ON THURSDAY, SEPTEMBER 25, 2008.
14 MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR. CARTER AND
15 THE DEFENDANT WERE PRESENT IN OPEN COURT. PROCEEDINGS WERE AS
16 FOLLOWS:)

17 (THE JURY ENTERED THE COURTROOM.)

18 THE COURT: Good morning. Court will come back
19 to order at this time.

20 Who would be the State's next witness?

21 MR. HILL: Your Honor, the State would call
22 Miss Melissa Schoene.

23 (THE WITNESS ENTERED THE COURTROOM.)

24 THE COURT: If you will, come forward, just
25 face the bench, raise your right hand. I'd like to
26 administer the oath.

27 Do you solemnly swear or affirm the testimony you
28 give in this case will be the truth, the whole truth and
29 nothing but the truth, so help you God?

1 THE WITNESS: Yes, sir, I do.

2 THE COURT: Come around, please, and have a
3 seat.

4 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

5 State your name for the record, please.

6 THE WITNESS: My name is Melissa Schoene. My
7 last name is spelled S-c-h-o-e-n-e.

8 THE COURT: You may proceed.

9 MELISSA SCHOENE, Called on behalf of the State, having
10 been duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION BY MR. HILL:

12 Q. Good morning, Miss Schoene.

13 A. Good morning.

14 Q. Would you start out, if you would, by telling the
15 ladies and gentlemen of the jury how you are now employed,
16 please?

17 A. Yes. Currently I live in Atlanta, and I teach
18 chemistry and forensic science at Georgia Perimeter College in
19 Atlanta.

20 Q. What about, if you don't mind, give us a little bit
21 about your educational background.

22 A. My educational background, I received my Bachelor of
23 Arts degree in criminal justice from the University of Alabama
24 and also a master's degree in the field of organic chemistry,
25 also from University of Alabama.

26 Q. And would you tell us whether or not you were ever
27 employed with the Mississippi Crime Laboratory?

28 A. Yes. I was employed with the Mississippi Crime
29 Laboratory throughout the majority of the '90's.

1 Q. Were you so employed in July of 1996?

2 A. Yes. In July of 1996, I was employed by the
3 Mississippi Crime Laboratory. I was stationed in Jackson,
4 Mississippi. And my primary job responsibilities were that of
5 a forensic scientist and also crime scene specialist.

6 Q. What was -- what was your occupation or what, if
7 any, occupation did you have before you joined the Mississippi
8 Crime Laboratory?

9 A. Prior to working full-time with the Mississippi
10 crime lab, I worked with the Alabama Department of Forensic
11 Sciences, as well as the Alabama State Medical Examiner's
12 Office in Tuscaloosa.

13 Q. Did you have occasion while you were working for the
14 State of Alabama and the State of Mississippi to assist and
15 participate in death investigations?

16 A. Yes. I participated in death investigations both in
17 Mississippi and in Alabama.

18 Q. Would you tell us what, if any, special training
19 that you had while you were with the Mississippi Crime
20 Laboratory in your particular area, please, ma'am?

21 A. The majority of my training came from an
22 apprenticeship-type training program where I worked with a
23 more experienced and senior analyst and examiner.

24 I also attended numerous workshops, seminars and classes
25 involving different areas in the field of crime scene
26 documentation and evidence collection.

27 Q. Have you ever been qualified as an expert in your
28 area in the circuit courts of the State of Mississippi?

29 A. Yes, sir. I have been qualified as an expert in the

1 circuit courts of Mississippi.

2 Q. Any other state ever qualified you as an expert?

3 A. Yes. Georgia has as well.

4 Q. And could you venture to give us - most of the
5 counties in this state, a few of the counties? Is there any
6 way that you can tell us about how many times or in what areas
7 of the state you've testified as a expert witness?

8 A. I've testified all over the state of Mississippi and
9 been qualified as an expert in those fields. And I can't
10 recall the circuit in Georgia.

11 Q. Okay.

12 A. Northern Georgia.

13 Q. Okay. And how long had you been working for the
14 State of Mississippi in July of '96?

15 A. Approximately four years.

16 MR. HILL: Your Honor --

17 Q. (By Mr. Hill:) Well, one other question - what,
18 what is your field? What was your field of expertise at the
19 time? In other words --

20 A. In 1996?

21 Q. Yes, ma'am.

22 A. Actually, I had two. I was a trace evidence
23 examiner and also footwear and tire track impression examiner
24 in the crime lab. And I was also a certified crime scene
25 analyst.

26 What that means is that I have taken specialized training
27 and also successfully passed proficiency tests in the area of
28 crime scene documentation and evidence collection.

29 MR. HILL: Your Honor, at this time we would

1 ask that the Court accept Miss Melissa Schoene as an
2 expert in those fields - that is, in the field of crime
3 scene investigation and in the fields that she mentioned.

4 MR. DEGRUY: We have no questions, Your Honor.

5 THE COURT: I'll allow her to be -- find her to
6 be an expert in those fields and will allow her to so
7 testify.

8 MR. HILL: Thank you, Your Honor.

9 Q. (By Mr. Hill:) Miss Schoene, would you -- I am
10 going to jump right in and ask if you were actually working
11 with the Mississippi Crime Laboratory on Tuesday morning, July
12 16, 1996.

13 A. Yes. I was employed at the Mississippi Crime
14 Laboratory on that day. I had received a request to come to
15 the assistant director's office. And the assistant director
16 at the time is the one who dispatched requests for crime scene
17 assistance.

18 She had informed me that we had received -- our
19 laboratory had received a request to assist the Winona Police
20 Department and the Mississippi Highway Patrol Criminal
21 Investigations Bureau, assist those investigators with a
22 potential multiple homicide in Winona, Mississippi, that took
23 place in a furniture store.

24 Q. Okay. And at that time did the crime lab have a
25 section called a Violent Crime Scene Response Unit?

26 A. Violent crime. Yes. Yes. Violent Crime Response
27 Unit. Yes.

28 Q. Were you a member of that?

29 A. Yes.

1 Q. Was that one of the reasons you were chosen to be
2 dispatched up here to Winona, Mississippi?

3 A. Yes, sir. I was -- I was the analyst that was on
4 call at the time.

5 Q. Do you recall what time you left Jackson and what
6 time you got here?

7 A. I left Jackson at 11:55 a.m. and arrived at the
8 scene at Tardy Furniture store at 1:15 p.m.

9 Q. Can you tell us what -- what was the first thing you
10 remember seeing when you came to Tardy's here in Winona,
11 Mississippi?

12 A. Well, upon my arrival there was yellow crime scene
13 tape in the parking lot. And my, my coworker and I parked our
14 -- we have a blue crime scene van that carries most of our
15 equipment. In that we entered the area, parked our car, got
16 out -- parked the van, excuse me, got out and began speaking
17 with the investigators who were on the scene at that time.

18 Q. Miss Schoene, I am going to -- with the Court's
19 permission, I am going to put this chart, State's Exhibit 1-A,
20 I am going to put that up on the easel and ask if you look at
21 that photograph, can you tell us whether or not you recognize
22 what that photograph shows.

23 A. Yes. That is a photograph of our blue crime scene
24 van that carries our equipment parked in front of Tardy
25 Furniture store on the day of Tuesday, the 16th.

26 Q. Could you tell us whether or not when you arrived
27 the crime scene appeared to be secured?

28 A. Yes. The, the reason the crime scene itself -- upon
29 our arrival, I'm not quite certain exactly what the parameters

1 of the crime scene are. That, that requires us to get out,
2 look around and also talk to the investigators.

3 But actually, it was a larger area than, than was
4 necessary was cordoned off with that yellow crime scene tape.
5 So yes, I would call that extremely secure.

6 Q. Who -- do you recall whether or not you talked to
7 any local Winona officers when you got here that day?

8 A. Upon my arrival I spoke with Chief Johnny Hargrove,
9 and he is the one who lead myself and my partner through the
10 crime scene.

11 Typically, what we do when we arrive at a scene is we
12 want to first somewhat survey the scene to see if there is any
13 fragile evidence or evidence of a fragile nature that we have
14 to get immediately. For example, if it's about to start
15 raining or if it might blow away or if there is something that
16 might topple over. I didn't see any, any evidence of that
17 nature at that point.

18 After that initial survey, then I walked through the
19 crime scene with Chief Johnny Hargrove, and he pointed out
20 various items of evidence that he and the other criminal
21 investigations bureau examiners had already observed inside of
22 the store.

23 Q. Would you consider it proper police procedure to --
24 for an initial responding officer to make sure that that crime
25 scene was secure until crime scene investigators arrived?

26 A. Would I consider it proper?

27 Q. Yes, sir. Yes, ma'am.

28 A. Yes.

29 Q. In other words, if the chief is making sure it's

1 secure, that would be proper procedure, wouldn't it?

2 A. Yes.

3 Q. To secure the crime scene until the investigators
4 got there.

5 A. Yes.

6 Q. You said that he escorted you in. Was there crime
7 scene tape on both the inside and outside of the store?

8 A. Yes, there was. What you are looking at is an image
9 of, obviously, the outside of the store. Once you enter the
10 door, there was approximately about the middle of the store
11 there was another yellow barrier of crime scene tape.

12 Q. Okay. Did he escort you through that as well?

13 A. Yes. He escorted myself and my partner through
14 pointing out items of evidence that, that he and his other
15 investigators or the highway patrol investigators had already
16 noted. Some of those were bloody footwear impressions or shoe
17 prints that appeared to be made in blood and also firearms
18 evidence.

19 And when I say firearms evidence, what I mean is there
20 was a live round, a bullet that was not fired on the ground,
21 as well as five different casings. Some people call casings
22 shells or hulls. A casing is what is left over after a weapon
23 is fired and the projectile or the bullet exits the barrel.
24 Then in an automatic weapon, a casing or a hull or a shell
25 could be ejected.

26 So there was five of those on the floor of Tardy
27 Furniture store as well as various projectiles or bullets,
28 bullet fragments. And he proceeded to walk me through that
29 scene and point those items out.

1 Q. Okay. Now, did you sketch or diagram what the
2 inside of the store looked like at any point?

3 A. Yes. My, my partner and I did prepare a rough
4 sketch when we were inside of Tardy Furniture store.

5 There is three primary types of crime scene
6 documentation. We will take photographs. We will prepare a
7 narrative, where we write down everything that we observed and
8 what we do as we are going through. And then the third and
9 final type of documentation would be drawing a sketch of the
10 scene.

11 What we do at the scene is a very rough, almost sloppy
12 sketch. We do the best we can based on being at the scene.
13 We basically free-hand a sketch. So that is called a rough
14 sketch.

15 And then typically, we will go back to the crime
16 laboratory under controlled conditions with the proper
17 lighting and proper tools and make a more polished sketch.

18 Q. Did you do that in this case?

19 A. Yes. I made a rough sketch and a polished sketch.

20 Q. I'm going to show you State's Exhibit 51 first.
21 Tell us if you can identify that. And if so, what is it,
22 please?

23 A. State's Exhibit 51 is a photocopy of the rough
24 sketch that was prepared while at the scene on Tuesday the
25 16th.

26 Q. Okay. And I hand you State's Exhibit 39 for
27 identification and ask you if you recognize that.

28 A. State's Exhibit 39 is a photocopy of the polished
29 sketch that was made from the rough sketch.

1 Q. Okay. And you, you prepared or assisted in the
2 preparation of these.

3 A. Yes.

4 MR. HILL: Okay. Your Honor, if the Court
5 please, I would ask that State's 39 and State's 51 be
6 received at this point.

7 MR. DEGRUY: No objection.

8 THE COURT: Court will allow them to be
9 admitted.

10 (THE CRIME SCENE SKETCH PREVIOUSLY REFERRED TO AS STATE'S
11 EXHIBIT NUMBER 39 WAS ADMITTED INTO EVIDENCE.)

12 (THE CRIME SCENE SKETCH PREVIOUSLY REFERRED TO AS STATE'S
13 EXHIBIT NUMBER 51 WAS ADMITTED INTO EVIDENCE.)

14 Q. (By Mr. Hill:) Miss Schoene, I am going to put up
15 on the board here -- I guess maybe I should stand over here.
16 I am going to put up on the board an exhibit that has been
17 marked State's Exhibit 39-A for identification and ask if you
18 can recognize what that is, please.

19 A. Yes. This is an enlargement of the polished sketch.

20 Q. Okay. So this is your crime scene drawing or crime
21 scene diagram that you refined a little bit after you made a
22 rough sketch back at the lab; is that right?

23 A. Yes.

24 Q. Okay. I am going to ask, if you will, to step down.
25 If the Court will allow, Your Honor, to have her step
26 down a little bit.

27 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

28 A. If I could go ahead and point out too, this is the
29 second -- the crime scene barrier. Earlier I was asked if

1 there was more than one set of crime scene tape. What you are
2 looking at here is where the second crime scene barrier was.

3 Q. Miss Schoene, would you just, please, I guess, start
4 with the entrance and describe for the ladies and gentlemen of
5 the jury what is depicted in your crime scene diagram here and
6 how it's set up. If you just give them a general orientation
7 of what's depicted, what these numbers mean.

8 A. Just generally.

9 Q. Yes, ma'am.

10 A. What you are looking at -- the Tardy Furniture store
11 was composed of, when we arrived, of two halves, if you will.
12 This walking into the store, the front door would be, if I
13 were to carry this on, would be down here. So if you open --
14 if this would open up to the street and where you saw the
15 picture earlier of the blue crime scene van, that would be way
16 down here. So we park here.

17 We come in the front door. As you entered -- as I
18 entered the, the front door of Tardy Furniture store, I could
19 see a great deal of furniture here and another half of the
20 store that was somewhat closed off on this side.

21 As I proceeded towards the back of the store I came upon
22 this, this yellow crime scene, the second crime scene barrier
23 here and a series of partial bloody footwear impressions that
24 they appeared to be made in blood because they were in such
25 close proximity to the wounds, the pools of blood here coming
26 from the victim.

27 As I proceeded towards the back here, I saw a couple of
28 items of evidence which will correlate later with you, what I
29 labeled "A", "B", and "C". These are footwear impressions,

1 and the large numbers that you see circled are the empty,
2 empty casings, right.

3 Okay. So there were five of those - one, two, three,
4 four and five. You also see 1-B and 2-B. These correspond to
5 projectiles, the bullets that came -- that came out of the
6 gun. 1-C and 2-C correspond to fragments or just pieces of
7 bullets.

8 What you also should see here, there are three -- there
9 were three victims upon my arrival at the scene - two females
10 and a male. This victim was Robert Golden.

11 Q. You have him -- excuse me for interrupting. He
12 is -- you have a number by him or you just --

13 A. He is victim number one.

14 Q. Okay.

15 A. At the time -- I'm not certain of, of people's names
16 or their histories and such when I arrive at the scene. So
17 the best way that, that I found to just keep the facts as the
18 facts is I label these victims with numbers.

19 So this was victim number one, Robert Golden. This was
20 victim number two, Bertha Tardy, who was lying face
21 down and -- excuse me. This is Carmen Rigby. Victim number
22 two is Carmen Rigby. Victim number three toward the back of
23 the store -- this is the very back of the store. Victim
24 number three is Bertha Tardy, and she was also found lying
25 face down.

26 Q. Now, did you prepare -- let's see, I don't --

27 Your Honor, I would ask that 39-A be received at this
28 point. I don't think I've requested that it be marked into
29 evidence yet but I will do so now, please.

1 MR. DEGRUY: No objection.

2 THE COURT: I'll allow it to be admitted.

3 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 39 PREVIOUSLY
4 MARKED STATE'S EXHIBIT NUMBER 39-A FOR IDENTIFICATION WAS
5 ADMITTED INTO EVIDENCE.)

6 Q. Did you prepare -- did you prepare a key or a - I'll
7 just call it a key. I think that is what you call it - a
8 typewritten key, that explains what's on your diagram?

9 A. Yes.

10 Q. And we had marked for identification State's Exhibit
11 40 for identification. Do you recognize that?

12 A. I do recognize this. This is a photocopy of a
13 document that I prepared titled key and measurements for
14 sketch of northwest room of Tardy Furniture company, Winona
15 Mississippi.

16 Q. Now, is that a key and measurements for this big
17 diagram that you just pointed out to us?

18 A. Yes. This key corresponds to the numbers that I had
19 pointed out. There is measurements between different
20 important points, as well as a description. I had told you
21 earlier that 1 through 5 indicate, the circles, indicated the
22 casings or the hulls that were ejected. So what you would see
23 here on this key, I would explain that in writing. One
24 through five indicates location of casings.

25 Q. Okay. And Miss Schoene, we had some enlargements of
26 that made. I want to call your attention to - I have to lift
27 it up to see - State's Exhibit 40-A. And I think this is
28 40-B, if my memory serves me correctly, 40-A and 40-B. Are
29 these enlargements of the page that, that you have in your

1 hand there?

2 A. May I get up and look?

3 THE COURT: You may.

4 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

5 A. They are. The only thing that I do not see here is
6 my initials circled on the bottom. But yes, they appear to
7 contain the same information and do, do appear to be
8 enlargements of the key that I prepared.

9 MR. HILL: Your Honor, we would ask that
10 Exhibit 40, the key and the enlargements, 40-A and 40-B
11 be received at this time.

12 MR. DEGRUY: No objection.

13 THE COURT: Court will allow them to be
14 admitted.

15 (THE KEY AND MEASUREMENTS FOR THE SKETCH IDENTIFIED AS
16 STATE'S EXHIBIT NUMBER 39 PREVIOUSLY MARKED STATE'S EXHIBIT
17 NUMBER 40 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

18 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 40, PAGES 1 AND 2,
19 PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT NUMBER 40-A AND 40-B
20 WERE ADMITTED INTO EVIDENCE.)

21 Q. (By Mr. Hill:) Now, Miss Schoene, I am going to ask
22 you, if you would, again, since we are using these
23 enlargements, if you would, step down here, please, ma'am, and
24 continue to speak loudly, if you would, please.

25 A. (Complied.)

26 Q. Can you just tell us -- for example, you have got
27 victim number one. What, what are these sentences or, or
28 notes that you have under where victim number one is?

29 A. May I refer to the sketch?

1 Q. Yes, you may. I'm sorry.

2 THE COURT: Sure.

3 Q. And I may have covered it up with that other thing.

4 A. What these essentially are is measurements that I
5 took at the crime scene that placed victims and items of
6 evidence in relation to something that is rather immovable and
7 also related them to one another. So we could get a general
8 idea when explaining this of the relationship, the spacial
9 relationship, of the evidence and the victims to the fixed
10 points in the store.

11 THE COURT: Why don't you see if that other
12 easel and maybe you can put her key up next to the easel?

13 THE WITNESS: I could hold it.

14 THE COURT: I mean extra diagram.

15 MR. HILL: It might be that we want to move it
16 on out.

17 THE WITNESS: Can y'all see this okay with me
18 here?

19 A JUROR: It kind of has a glare on it.

20 THE WITNESS: Got a glare.

21 A JUROR: From this point.

22 Q. (By Mr. Hill:) Now, if you would, just -- if you
23 can, read that from where you are, Miss Schoene. Just what we
24 want to do is see how you describe in writing what you have
25 shown on your drawing, State's Exhibit 39-A.

26 A. This might be a bit repetitive. However, I'll -- as
27 the key shows you here, exhibits, well, 1 through 5. These
28 numbers correspond to the circles that are drawn here on, on
29 this polished sketch. What you see in parenthesis, Exhibits

1 25 through 29, those correspond to crime laboratory case
2 numbers that once I collect the evidence from the crime scene,
3 if it's -- if it's a casing or projectile, I place it in a
4 small, white pill box and then seal it and label that small,
5 white pill box.

6 So what you see in parenthesis here, exhibits correspond
7 to the Mississippi Crime Laboratory exhibit numbers that were
8 given to each of the casings that were collected here. So 1
9 through 5, again, Casing 1, 2, 3, 4, 5 back here closest to
10 Bertha Tardy.

11 1-A, this depicts the location of a cartridge. And what
12 I mean by cartridge is just an unfired or unspent round. It
13 is something that ejected or fell to the ground that was not
14 fired. It was a -- had casing and a projectile still in it.
15 So that was here.

16 1-B. Let's see. 1-B and 2-B indicate the location of
17 projectiles. And then 1-C and 2-C indicate here and here,
18 indicate the location of the fragments. (Indicated.)

19 Q. So let me -- let me ask a question in here. Is the
20 number shell casings or empty hulls --

21 A. Uh-huh.

22 Q. -- or fired bullet casings, you numbered five of
23 them; is that correct?

24 A. Yes.

25 Q. You have them listed on your chart on -- this is on
26 40-A. You have them listed at the bottom - Casing 1, Casing
27 2, Casing 3, Casing 4 and Casing 5. Is that -- am I following
28 you?

29 A. That is exactly right. This is the key to the

1 sketch. And then what is beneath this is a more detailed
2 location, the measurements that were taken for each particular
3 item of evidence. So what you are looking at here is the
4 firearm -- the location of firearms evidence that I collected,
5 as well as "A", "B", and "C" in those rectangles. Those
6 indicate partial footwear impressions that were collected.
7 (Indicated.)

8 Q. Let me -- point out the footwear impressions for us,
9 if you will, please.

10 A. Okay. "A", "B", and "C". With the footwear
11 impressions, I labeled "A", being the one that is closest to
12 the front door.

13 Q. Did you take some photographs of "A", "B", and "C",
14 the footwear impressions?

15 A. I took several photographs. I took general crime
16 scene documentation photographs showing the location of these
17 footwear impressions in relation to the rest of the store.

18 And I also took something called examination quality
19 photographs. And that is a rather specialized type of
20 photography where we use black and white film, a tripod,
21 oblique lighting.

22 It's, it's the best way to collect impression evidence
23 that cannot be actually removed and taken back to the crime
24 lab. So I did. I took several photographs of those footwear
25 impressions as well.

26 Q. And let me stop you right there. Since we are
27 talking about footwear impressions, I wanted to show you a
28 couple of exhibits.

29 Miss Schoene, I want to show you two photographs. They

1 are marked State's Exhibit 45 and 46. Would you just look at
2 those, please?

3 A. (Complied.)

4 Q. And if you can, tell us what they are.

5 A. Yes. These are two black and white photographs that
6 I took. And I can identify that I took these based on our
7 Mississippi Crime Laboratory case number and exhibit number.
8 What you -- what these black and white photographs depict is
9 the location of these footwear impressions - "A", "B", and
10 "C".

11 This one is taken from the front of the store, like this.
12 So you would see "A", "B", and "C". And then I came down with
13 this slight slope and took a photograph with the camera this
14 way. So you will see these two black and white photographs
15 depict from two different angles these partial footwear
16 impressions. (Indicated.)

17 Q. Okay. And the little white markers in the black and
18 white photographs, those little white -- they look like maybe
19 folded cards or --

20 A. There are three black -- there are three markers
21 that are on -- are depicted in these photographs and these
22 represent "A", "B", and "C". Again, "C" is the impression
23 that corresponds to this impression which is closest to victim
24 Bertha Tardy, toward the back of the store. "B" is the
25 footwear impression that is the closest to the slope. And "A"
26 is the footwear impression that is closest to the front of the
27 store. "A". "B". "C". And "A". "B". "C". (Indicated.)

28 MR. HILL: All right. May we have 45 and 46
29 received into evidence, Your Honor?

1 MR. DEGRUY: No objection.

2 THE COURT: Allow them to be admitted.

3 (THE PHOTOGRAPH OF THE FOOTWEAR IMPRESSIONS REFERRED TO
4 AS STATE'S EXHIBIT NUMBER 45 WAS ADMITTED INTO EVIDENCE.)

5 (THE PHOTOGRAPH OF THE SIDE VIEW OF THE FOOTWEAR
6 IMPRESSIONS REFERRED TO AS STATE'S EXHIBIT NUMBER 46 WAS
7 ADMITTED INTO EVIDENCE.)

8 Q. (By Mr. Hill:) Miss Schoene, while we were talking
9 about your crime scene photography on the State's Exhibit 45
10 and - I think that is 46 - 45 and 46, these small black and
11 white --

12 A. Um-hum.

13 Q. Are these photographs capable of being enlarged for
14 further examination?

15 A. These photographs would not be enlarged for further
16 examination, but the object of the -- of these would be. I
17 would not enlarge this for examination, but I -- what I would
18 do and what I did do is photograph each of the impressions
19 separately. So then the impressions themselves could be
20 enlarged for examination. (Indicated.)

21 Q. Okay. And I would like to show you then, just see
22 if you can -- if you would, look at State's Exhibit 47, 48, 49
23 and 50. And if you could, just tell us what those are,
24 please.

25 A. These are enlargements of the black and white -- or
26 some of the black and white photographs that I took of these
27 partial footwear impressions labeled "A", "B", and "C".

28 Q. Okay. And was the purpose of you taking all of
29 those footwear impressions so that another analyst could look

1 at those and maybe compare them against some known object that
2 might make that impression?

3 A. Yes.

4 Q. Okay. These are just enlargements of photographs
5 that you took. That is all I'm trying to get.

6 A. Yes. Yes.

7 Q. Okay. Thank you, ma'am.

8 A. Um-hum.

9 Q. Okay. Now, Miss Schoene, you have pretty well gone
10 through what's on the wall here for now. And I'm going to let
11 you get back on the stand, if you -- well, wait a minute.

12 I'm going to try to -- I'm going to change that a little
13 bit. I've got some exhibits that I want you to look at. You
14 indicated awhile ago that you picked up some shell casings.
15 And you indicated that you had numbered them and listed them
16 on your crime scene key.

17 And I want to show you State's Exhibit Number 88, and I'm
18 going to hand you that. And I would like for you to look at
19 that if you can. Tell us if you can identify it.

20 A. Yes. I can identify State's Exhibit - here it is -
21 State's Exhibit 88 as being Mississippi Crime Laboratory
22 Exhibit Number 25, which corresponds to Casing Number 1, which
23 corresponds to this point here on the sketch.

24 When I say State's exhibit, that's the exhibit that the
25 State is giving the number that they are giving. (Indicated.)

26 Q. That's on the little sticker.

27 A. Yeah. But when I say Mississippi Crime Laboratory
28 exhibit number, that is actually a number that I assigned for
29 each item of evidence. It might get a little confusing,

1 because we need to confirm that this exhibit matches my
2 exhibit number.

3 But that, that is the reason for that lengthy discussion
4 there. But yes, what is in this box, I collected from this
5 location here. (Indicated.)

6 Q. And you listed it, if I understand you correctly,
7 here. Casing Number 1.

8 A. Yes. Yes. Casing Number 1. This is the
9 description - located 12 inches from the front of the counter,
10 15 inches from the head of victim Robert Golden and 77 inches
11 from the north edge of the counter.

12 Q. So that is a shell casing.

13 A. This is a casing or hull.

14 Q. I want to hand you State's Exhibit Number, that is
15 trial, Trial Exhibit Number 89. If you would, tell us what
16 that is and show us where you found it, please.

17 A. Trial Exhibit Number 89 corresponds to my crime
18 laboratory Case Number 26, which corresponds to the sketch as
19 being Casing Number 2. (Indicated.)

20 Q. Would you point out --

21 A. So Casing Number 2 was collected from this area.
22 And the description of Casing Number 2 is here, along with the
23 location - 25 inches from the front of the counter, 20 inches
24 from head of victim Robert Golden and 74 inches from the north
25 edge of the counter.

26 Q. And just in general terms, Casings Number 1 and
27 Casing Number 2 were found probably closer to Mr. Robert
28 Golden; is that correct, 1 and 2. These probably were --

29 A. Closer to Robert Golden than --

1 Q. Than to Miss Rigby.

2 A. Yes. Yes.

3 Q. Okay. I want to show you State's Trial Exhibit 90,
4 S-90.

5 A. Okay.

6 Q. Would you look at that and tell us about that one,
7 please?

8 A. State's Exhibit 90 corresponds to the crime lab Case
9 Number 27, Exhibit 27, which corresponds to Casing Number 3 on
10 my sketch, which was collected here, closest to victim Carmen
11 Rigby. (Indicated.)

12 Q. And that would be listed here.

13 A. Yes. That would be listed here. Here is the
14 description. And it was located 3.5 inches from victim Carmen
15 Rigby's left elbow. Miss Rigby was lying face down with this
16 arm extended and this elbow bent out. (Indicated.)

17 Q. State's Trial Exhibit Number 91. Would you tell us
18 what that is, please, ma'am?

19 A. Trial Exhibit Number 91 corresponds to my Case
20 Number 28, which corresponds on this sketch to Casing Number
21 4, which was located here. It is also described here -
22 located 83 inches from the southeast corner of the counter.
23 So it was in this area here. (Indicated.)

24 Q. Okay. I want to hand you next State's Exhibit --
25 for trial, State's 92.

26 A. Okay.

27 Q. Take a look at that, and tell us what that is, if
28 you recognize it.

29 A. State's Exhibit 92 corresponds to my Exhibit Number

1 29, which corresponds to the sketch, Casing Number 5, which is
2 located here, in close proximity to Victim Number 3, Bertha
3 Tardy. (Indicated.)

4 Q. And it is listed...

5 A. It is listed here. Located 64 inches from victim
6 Bertha Tardy's head, 35 inches from the wall. (Indicated.)

7 Q. Okay. Miss Schoene, I noticed on the chart that you
8 labeled these shell casings with -- all of them seem to have
9 in common .380 auto. Would you tell us what that means,
10 please?

11 A. This -- the descriptions that you see here after the
12 colon with the casings is information that I read off of the
13 head stamp, that I read off of the bottom of the casing, if
14 you will. When I say bottom, if you were to take a casing and
15 sit it up right like this, there will be larger portion that
16 is kind of like this. I am reading that information from that
17 portion of each of these casings. (Indicated.)

18 Q. So that is writing stamped into the base of the
19 bullet.

20 A. It is a stamp into the base of the bullet. Yes.

21 MR. HILL: Your Honor, at this time I would ask
22 that State's Exhibits 88, 89, 90, 91 and 92 be received
23 please, sir.

24 MR. DEGRUY: No objection.

25 THE COURT: Court will allow them to be
26 admitted.

27 (THE .380 SHELL CASING LABELED CASING NUMBER 1, REFERRED
28 TO AS STATE'S EXHIBIT NUMBER 88, WAS ADMITTED INTO EVIDENCE.)

29 (THE .380 SHELL CASING LABELED CASING NUMBER 2, REFERRED

1 TO AS STATE'S EXHIBIT NUMBER 89, WAS ADMITTED INTO EVIDENCE.)

2 (THE .380 SHELL CASING LABELED CASING NUMBER 3, REFERRED
3 TO AS STATE'S EXHIBIT NUMBER 90, WAS ADMITTED INTO EVIDENCE.)

4 (THE .380 SHELL CASING LABELED CASING NUMBER 4, REFERRED
5 TO AS STATE'S EXHIBIT NUMBER 91, WAS ADMITTED INTO EVIDENCE.)

6 (THE .380 SHELL CASING LABELED CASING NUMBER 5, REFERRED
7 TO AS STATE'S EXHIBIT NUMBER 92, WAS ADMITTED INTO EVIDENCE.)

8 Q. (By Mr. Hill:) Miss Schoene, I am going to now hand
9 you State's Exhibit, Trial Number 83, S-83. Would you look at
10 that and see if you can tell us what that is, if you recognize
11 it, please?

12 A. Trial Number S-83 corresponds to crime laboratory
13 Case Number 31, which corresponds on this sketch to Projectile
14 1-B, which was located here. So this was one of the two
15 projectiles that I collected.

16 The difference being where we have projectiles, and we
17 have fragments. So this is a more complete piece here
18 collected from this location, which corresponds on the key
19 right here, Projectile 1-B, 50 inches from northeast corner of
20 counter. Here. (Indicated.)

21 Q. I want to hand you State's Exhibit Number 84. Can
22 you tell us what that is, please?

23 A. State's Exhibit 84 corresponds to crime laboratory
24 Case Number, Exhibit Number 32, which is Projectile 2-B, which
25 is located here on the sketch, corresponds to here on the key,
26 underneath the love seat, 32 inches from the south corner, 38
27 inches from the east counter. (Indicated.)

28 Q. Now, you -- in other words, you picked up these two
29 bullets. These are spent rounds, fired bullets; is that

1 correct?

2 A. Yes.

3 Q. Okay. And one of them was here. (Indicated.)

4 A. Yes.

5 Q. Is that right? And then one was here in front of
6 the loveseat. (Indicated.)

7 A. Yes. Actually, it was underneath. It was
8 underneath the loveseat, slightly underneath the loveseat.
9 Yeah.

10 Q. Okay. I want to show you State's Exhibit Number 85,
11 please, ma'am.

12 A. Okay. State's Exhibit 85 corresponds to crime
13 laboratory Exhibit Number 33, which corresponds to what you
14 are seeing on the sketch here to Fragment 1-C, which is
15 located here, very close in proximity to the body of the
16 second victim, Carmen Rigby.

17 1-C in this box corresponds to the key here, under the
18 corner of loveseat, 48 inches from the east counter, 12 inches
19 from the head of the victim, victim number two, Carmen Rigby.
20 So this, this fragment was found one foot from the head of
21 Carmen Rigby. Yeah. (Indicated.)

22 Q. State's Exhibit 93.

23 A. State's Exhibit 93 corresponds to crime laboratory
24 Exhibit Number 30, which corresponds on the sketch to 1-C and
25 one -- wait a minute. Excuse me for just a second. I am
26 having a hard time reading underneath all this tape, can't
27 quite seem to scrape it away.

28 Do you have like a pocket knife or something?

29 Q. Let me see it.

1 A. Just so I can read my writing on it. I guess -- you
2 know what I could do? Pardon me. I could read off this. I
3 can make out it's our Exhibit Number 30.

4 Q. Let me ask you this. What is that word right there?

5 A. Cartridge.

6 Q. And what do you mean by cartridge.

7 A. Cartridge would be a unfired bullet. It would be a
8 casing with the bullet still inside it.

9 Q. And do you have an Exhibit Number 30?

10 A. I certainly do. I certainly do. Cartridge
11 collected from near Carmen Rigby. The only cartridge that I
12 collected was here, 1-A, which corresponds to 1-A here,
13 Cartridge 1-A. And then with -- 12 inches to the bookcase and
14 46 inches from the left foot of Carmen Rigby. And it's
15 located here on the sketch. (Indicated.)

16 Q. You have a bookcase drawn in there as well.

17 A. Yes, I do.

18 Q. So what is a -- what is a cartridge? What do you
19 mean by cartridge?

20 A. A cartridge is essentially the casing with the
21 bullet still in it. It is an unfired -- an unfired round.

22 Q. Some of us would call it a live round.

23 A. Yes.

24 Q. Unfired bullet. Live round. In other words, it
25 hadn't been shot.

26 A. Yes.

27 Q. Is that correct?

28 A. That is correct.

29 Q. Thank you, ma'am.

1 Okay. Miss Schoene, you, you took some photographs and
2 I'm going to ask you, if you will, to help me with some
3 photographs here. I am going to move these.

4 Miss Schoene, you indicated in your testimony that one
5 way that you document a crime scene is by doing your sketch,
6 and you've been through that with us pretty well.

7 And that the next method is by photography. Is that
8 right?

9 A. Well, there is three primary ways to document. We
10 have sketch, a narrative and then photography. Yes.

11 Q. We have covered the sketch.

12 A. Got the sketch.

13 Q. A little bit anyway.

14 A. Yes.

15 Q. We are going to -- I want to ask you about some of
16 your documentation via photography.

17 A. Okey-doke.

18 Q. I'm going to show you some photographs. What I'd
19 like for you to do, just as you talk about the photograph,
20 just indicate the exhibit number that's preceded by an "S".
21 In other words, this photograph is S-11.

22 And I'm going to show you several. And I would like for
23 you just to tell us, if you can recall, what they are. And
24 then we'll proceed from there.

25 I want to just -- I guess we were talking about Miss
26 Tardy. You said you saw her in the aisle near the back of the
27 store. I want to show you State's Exhibit Number 10. Would
28 you tell us what that is, please?

29 A. State's Exhibit Number 10 is a color photograph

1 showing the feet of Victim Number 3, Bertha Tardy, taken the
2 front of the store facing the back of the store. And the
3 office is visible in the background.

4 Q. Okay. This is State's Exhibit Number 11.

5 A. State's Exhibit Number 11 is a color photograph
6 taken from the front of the store and very, very similar to
7 State's Exhibit Number 10. This image also shows the feet of
8 Victim Number 2, Carmen Rigby. It also shows the location of
9 the partial footwear impressions that were very close to
10 Carmen Rigby.

11 Q. Okay. State's Exhibit Number 24.

12 A. State's Exhibit Number 24 is a color photograph
13 taken in nearly the same place showing the hat, a blue
14 baseball cap and also the feet and body of Victim Number 3,
15 Bertha Tardy.

16 Q. State's 25.

17 A. State's Exhibit 25 is a color photograph showing the
18 partial footwear impressions near a bloody pool that also
19 contains a blue baseball cap and the foot of Victim Number 2,
20 Carmen Rigby. Bertha Tardy is visible in the -- in the back
21 of the photograph, as well.

22 Q. Okay. State's Exhibit Number 23.

23 A. State's Exhibit Number 23 shows Victim Number 3,
24 Bertha Tardy, lying face down towards the back of the store.
25 Her eyeglasses are visible underneath a bed in close proximity
26 to her head.

27 Q. State's Exhibit 21.

28 A. State's Exhibit 21 is a color photograph, also of
29 Bertha Tardy's feet, legs and feet. Yeah.

1 Q. Okay. And finally, State's Exhibit Number 22.

2 A. State's Exhibit Number 22 is a color photograph
3 showing Victim Number 3, Bertha Tardy, lying face down in a
4 pool of blood. The blood is coagulating and is partially on
5 her shoulder as well. There is also blood coming from her
6 ear.

7 Q. Okay. I want to now show you State's Exhibit Number
8 13.

9 A. State's Exhibit Number 13 is a color photograph
10 showing two victims and a third pool of blood. Victim Robert
11 Golden is in the background leaning up against the counter.
12 Victim Carmen Rigby is lying face down with a pair -- a set of
13 keys in close proximity to her hands. Also, the partial
14 footwear bloody impressions are present in this image as well.

15 Q. State's Exhibit Number 40. I'm sorry. State's 14.

16 A. State's Exhibit 14 is a color photograph of Carmen
17 Rigby lying face down in a pool of blood. And there is a
18 second pool of blood that is approaching her, her leg.

19 Q. Okay.

20 A. From a different source.

21 Q. Okay. State's 12.

22 A. State's Exhibit Number 12 is a color photograph
23 showing the sandal of Carmen Rigby, a pool of blood near
24 Carmen Rigby that has the blue baseball cap and the three
25 footwear -- three partial footwear impressions.

26 Q. State's 15.

27 A. State's Exhibit 15 is a color photograph of a pair
28 of keys near a sofa.

29 Q. Okay. Did you -- do you recall if you saw those

1 keys in any other photograph? Can you relate those keys --

2 A. Yes. Yes. Those keys looked like the keys that
3 were near the hand of Carmen Rigby.

4 Q. Okay. And I show you State's Exhibit Number 20.

5 A. State's Exhibit Number 20 is a color photograph of a
6 very small portion of a pool of blood and the eyeglasses that
7 were closest to Victim Number 3, Bertha Tardy. This was
8 closest to the back of the store.

9 Q. Okay. I show you State's Exhibit Number 26.

10 A. State's Exhibit Number 26 looks like a duplicate of
11 a photograph that I've already mentioned.

12 Q. Okay.

13 A. With Robert Golden in the background. Carmen Rigby
14 closer to the front of the camera. A third pool of blood,
15 where there is no victim. And you can also see a set of keys
16 very close to the hand of Carmen Rigby.

17 Q. Does that look like the keys that we just talked
18 about in this other photograph?

19 A. Yes.

20 Q. Okay. State's Exhibit Number 30.

21 A. State's Exhibit Number 30 is a color photograph of
22 victim number -- Victim Number 1, Robert Golden. Also, in the
23 foreground is the head of Carmen Rigby with her right hand
24 extended and also the set of keys there as well.

25 Q. Okay. Now --

26 A. What --

27 Q. Important here is the angle of the shot. Can you
28 tell us the angle of this shot showing Mr. Golden, please?
29 It's looking -- what direction is that looking?

1 A. This is -- this photograph is taken from near the,
2 the ramp - if you all recall the ramp on the sketch - from
3 that area taken directly toward Robert Golden.

4 You also can see in this photograph, which, again, is
5 State's Exhibit 30, the counter on which Robert Golden was,
6 was leaning against. The counter that's in the middle of the
7 store, if you recall that from the sketch.

8 Q. Okay. Thank you, ma'am.

9 I now have State's Exhibit Number 16. Explain that to
10 us, please.

11 A. State's Exhibit Number 16 is a color photograph of
12 Victim Number 1, Robert Golden, lying on his -- on his right
13 side in a pool of blood at his head.

14 Q. State's Number 17.

15 A. State's Exhibit Number 17 is also a photograph of
16 victim Robert Golden; however, this is taken from the other
17 angle. This is taken from the other side looking toward
18 Carmen Rigby, and the partial footwear impression and the pool
19 of blood that had the baseball cap and the ramp on that side
20 of the store.

21 Q. State's 18.

22 A. State's Exhibit 18 is a color photograph of victim
23 Robert Golden from very -- a very similar angle to the
24 previously -- to the picture I previously explained, which was
25 State's Exhibit 17. This shows his -- Robert Golden's full
26 body leaning against the back -- his back leaning against the
27 counter. He is lying on his -- on his right side in a pool of
28 blood.

29 As you continue to look farther, deeper into the picture,

1 you can see the hand and the head of victim Carmen Rigby, as
2 well as the location where the partial bloody footwear
3 impressions were collected. You can also see a pool of blood
4 where there was a baseball cap.

5 Q. Okay.

6 A. Blue baseball cap.

7 MR. HILL: Court indulge me just one minute,
8 Your Honor, to do a little housekeeping here as far as to
9 my evidence receipts.

10 Q. (By Mr. Hill:) Okay. I want to show you, again,
11 one more photograph that has already been received into
12 evidence, S-19.

13 A. Okay.

14 Q. Just tell us what that is, please.

15 A. This is a color photograph of victim Robert Golden
16 lying on his right side, leaning up against the counter. And
17 his, his head is in a pool of blood.

18 Q. Okay. That's been received.

19 Also, I show you S-2. I don't want to spend a lot of
20 time with that. Is that a picture of the front of Tardy
21 Furniture store as it existed when you arrived there on July
22 16, 1996?

23 A. Yes.

24 Q. Okay. I want to hand you State's Exhibit Number 32.
25 Tell us what that is, please.

26 A. State's Exhibit 32 is a color photograph of the
27 interior of Tardy Furniture store. From this image you can
28 see the counter, the front counter, in that it is located in
29 the center of that portion of the store; as well as the legs

1 of Victim Number 2, Carmen Rigby; the baseball cap and the
2 third pool of blood, of which when I arrived there was no --
3 there was no body associated with that.

4 Also, back off into the right-hand corner of this
5 picture, I can see the legs and feet of victim Bertha Tardy.

6 Q. All right. I want to show you State's 31 for
7 identification. Tell us what that is, please.

8 A. State's Exhibit 31 is taken from the back of the
9 store, completely different perspective, from the back of the
10 store towards the front. And State's Exhibit 31 gives a
11 perspective of the center, the counter that was in the center
12 of the store.

13 And in this I -- this is a photograph that I took. I
14 included victim Bertha Tardy's feet to give reference to her
15 location in regards to the counter in relation to the front of
16 the store.

17 Q. Okay. State's Exhibit Number 33 for identification.

18 A. State's Exhibit Number 33 is taken of the -- in the
19 inside of the furniture store. This is showing the, the
20 set-up of the inside counter. If you remember from the
21 sketch, the center portion of that area of the store is like a
22 "U", a three-sided "U". And this is a picture of, of that.

23 Q. Okay. State's Exhibit 27 for identification.

24 A. State's Exhibit Number 27 is very similar to the
25 picture that I just described. It's, it's the three-sided "U"
26 of the counter space on the interior of the store. This shows
27 a purse that's located in the center of that "U". Inside of
28 that purse we found identification belonging to Carmen Rigby.

29 Q. Anything -- the purse is on the floor.

1 A. The purse -- the purse is lying on the floor. Yes.
2 It is also in the sketch.

3 Q. And finally, I show you State's Exhibit 38 for
4 identification.

5 A. State's Exhibit 38 is a color photograph of a metal
6 safe that was located in the back office. It appeared to be
7 Bertha Tardy's office. This, this was a safe, an old metal
8 safe with the door closed. This -- when I examined the scene,
9 this door to the safe was closed but not locked.

10 Q. Does it also show a workplace, maybe a work
11 station - desk, telephone, such as that - in the picture?

12 A. Yes. This shows a telephone, an adding machine, a
13 calculator, a chair, just the small office in the back that
14 belongs to Bertha Tardy, the very back of the store.

15 Q. Okay. Thank you.

16 I want to show you State's Number 98. Take a look at
17 that, please. And I want to show you State's 41.

18 A. Okay.

19 Q. Look at those and see if you recognize what they
20 are.

21 A. Yes. These, these two exhibits depict the
22 projectiles that I collected from the scene. This is as they
23 were on the floor.

24 Q. Okay. And I would like to show you State's 28 for
25 identification. I don't know if I showed you that. I think
26 that is a closer-up view of the purse on the floor; is that
27 correct?

28 A. State's Exhibit 28 is another image of the counter
29 space on the inside of the furniture store showing a purse

1 that had identification belonging to Carmen Rigby, in the
2 purse that's found on the carpet there.

3 You can also see a money drawer, which is where money,
4 coins were. There was a money drawer that had the divisions
5 that, that are typical of a cash register. You can see a
6 picture of that as well. (Indicated.)

7 Q. Is there a gray filing cabinet to the left of that?

8 A. Yes.

9 Q. And I then show you State's 29. Would you look at
10 that, please?

11 A. This is a close-up of the money drawer. This is
12 State's Exhibit Number 29. This image shows the, the cash
13 drawer open. And it also shows the condition of the wood,
14 which is rather old and, and unpainted. And it also shows
15 lots of coins - pennies, quarters, dimes and nickels.

16 Q. Any currency in the drawer?

17 A. There is no money. I mean there is no paper
18 currency in the drawer. No. There is also a set of keys in
19 there as well.

20 MR. HILL: Your Honor --

21 Q. (By Mr. Hill:) At this time I would like to ask
22 you, Miss Schoene, before I get ahead of myself, do all of
23 these photographs that you've testified about, do they
24 accurately depict what you saw when you were in the store on
25 the scene, on this crime scene investigation on July 16, 1996?

26 A. Yes.

27 MR. HILL: Okay. Your Honor, I have at this
28 time that I believe have not been received into evidence
29 State's 41, State's Exhibit 98, State's Exhibit 28,

1 State's 29, 27, 33, 31, 32, and 38. These have not been
2 received into evidence. The rest of them have.

3 And I would ask at this time that these photographs
4 that Miss Schoene has testified about be received.

5 MR. DEGRUY: No objection, Your Honor.

6 THE COURT: Court will allow them to be
7 admitted.

8 And ladies and gentlemen, I will just have a
9 15-minute recess while these are being marked. I figure
10 you are ready to move around a little bit -- or at least
11 not have to sit still. So if you will, just step in the
12 jury room. And we'll resume in 15 minutes.

13 (A RECESS WAS TAKEN.)

14 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
15 27 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

16 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
17 28 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

18 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
19 29 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

20 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
21 31 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

22 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
23 32 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

24 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
25 33 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

26 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
27 38 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

28 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
29 41 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

1 (THE PHOTOGRAPH PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT
2 NUMBER 98 WAS ADMITTED INTO EVIDENCE.)

3 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
4 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
5 PROCEEDINGS WERE AS FOLLOWS:)

6 THE COURT: You can bring the jury in.

7 (THE JURY RETURNED TO THE COURTROOM.)

8 Court will come back to order.

9 You may proceed, Mr. Hill.

10 MR. HILL: Thank you, Your Honor.

11 Your Honor, first, I'd like to ask that State's
12 Exhibits 83, 84, 85 and 93 -- these are the projectiles
13 and firearms evidence that Miss Schoene testified to
14 earlier. I forgot to offer them. I'd like to offer them
15 in at this time.

16 MR. DEGRUY: No, no objection.

17 THE COURT: Court will allow them to be
18 admitted.

19 (THE PROJECTILE PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
20 83 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

21 (THE PROJECTILE PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
22 84 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

23 (THE BULLET FRAGMENT PREVIOUSLY MARKED STATE'S EXHIBIT
24 NUMBER 85 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

25 (THE .380 CARTRIDGE PREVIOUSLY MARKED STATE'S EXHIBIT
26 NUMBER 93 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

27 MR. HILL: Thank you, Your Honor.

28 Q. (By Mr. Hill:) Miss Schoene, you, you testified at
29 some length just before our break about the photographs that

1 you had taken. Do you know whether or not those -- some of
2 those photographs were enlarged, especially with regard to
3 victims that you saw in the store on July 16?

4 A. I did not enlarge them, but I believe that some were
5 enlarged.

6 Q. Okay. Yes. And I am sure you didn't enlarge them.
7 But you are aware that they were enlarged, and you have seen
8 the enlargements previously of those photos.

9 A. Yes, I have.

10 Q. Would you step down, please, just a minute?

11 A. (Complied.)

12 Q. Miss Schoene, I'm going to ask you, if you will -- I
13 believe you have a pointer there. If you would, would you
14 point out where you found Miss Bertha Tardy, please, in these
15 photo enlargements?

16 A. Bertha Tardy on my sketch was labeled as Victim
17 Number 3. And she was the victim who was closest to the back
18 of the store. This is Bertha Tardy's head in the condition in
19 which it was when I arrived. This is her feet. She is lying
20 on her stomach, face down. These are her glasses. And this
21 is near, close-up photographs.

22 What you see here is a more distant photograph attempting
23 to show the location of her body in relation to the rest of
24 the store.

25 But I wanted to make note just for your -- so you can get
26 a grasp of the relation of the objects. This is the corner of
27 the -- of the store, the counter that's in the center. All
28 right. (Indicated.)

29 Q. And, and you were referring to State's Exhibit 21-A.

1 A. Yes.

2 Q. Having on the left side of it the corner of counter.

3 A. Yes.

4 Q. Okay. I want to show you -- and for the record, the
5 witness pointed to the images on 23-A, 22-A and 21-A. Okay.

6 Miss Schoene, I want to ask you again, if you will, can
7 you look at the photographs shown in 12-A, 13-A and 14-A and
8 tell us, orient us in the store about where those pictures
9 were taken and who that is, please?

10 A. This is Carmen Rigby. On my sketch she is labeled
11 as Victim Number 2. What you see here is Miss Rigby lying
12 face down with her arm extended like this and this elbow up
13 underneath her. In very close proximity to her hand is this
14 set of yellow -- or it's a set of keys that has a yellow key
15 chain.

16 There is -- this is another pool of blood that is
17 associated with this area right here, to make reference to her
18 knee here in this pool of blood. This is a more distant
19 photograph showing the victim. Again, here are the keys.

20 This is State's Exhibit 13-A. This is the pool of blood
21 with the blue baseball cap. What you see in the background
22 here is Victim Number 1, Robert Golden, lying on his side with
23 his back up against this, this counter here. And to keep
24 things relative, this is the counter that is in the middle of
25 the store that housed the cash drawer.

26 We also made reference to Carmen Rigby's purse or purse
27 that had belongings of Carmen Rigby in it. That was found on
28 the floor just beyond, just down here.

29 What you see in State's Exhibit 12 is the feet of Carmen

1 Rigby. This is one of her sandals. For reference, this is
2 the same pool of blood that you see here. And what you can
3 also slightly make out is the, the footwear impressions that
4 were on the sketch that were labeled "A", "B", and "C". That
5 is this location.

6 What you see here or start to see are ramps and a
7 bookshelf. And those I made reference to on the sketch,
8 labeled ramp and bookshelf. (Indicated.)

9 Q. Okay. Let me -- and those images that you described
10 are in 13-A, 14-A and 12-A.

11 I am going to put up now for you State's Exhibits 16, 17,
12 18 and 19. Each one of those with an "A". Would you approach
13 and show us what those are, please?

14 A. These photographs depict images of Victim Number 1,
15 which I labeled Robert Golden. This is Robert Golden lying
16 with his back up against this, this counter here. This is a
17 pool of blood. Then he had his baseball cap on backwards.
18 You see him, him lying on his side. This is taken -- well,
19 facing this, this counter portion.

20 This is the same victim. The camera position from a
21 different angle. Now I'm standing here taking a picture down
22 towards him to show a reference here between this counter, his
23 body and the pool of blood here.

24 Moving on to State's Exhibit 17-A, what you see here for
25 reference is this, this counter here that's at the center of
26 the store. Victim Robert Golden lying in the pool of blood
27 here. This is the head and the hand of victim Carmen Rigby.
28 You see her feet extended this way. Here is the bookshelf and
29 the ramp, of which I made reference to earlier.

1 And this is also the area where the partial footwear
2 impressions labeled "A", "B", and "C" were collected. This is
3 the pool of blood that I had described earlier in discussing
4 Carmen Rigby. The pool of blood where there was no victim
5 when I arrived at the scene. It was just this pool of blood,
6 which, which pooled down toward the knee of Carmen Rigby.

7 Q. This is State's Exhibit 28-A. Miss Schoene, can you
8 tell us what that is, please?

9 A. State's Exhibit 28-A is a photograph that I
10 described earlier of the counter, the U-shaped counter that is
11 in the center of the store. This was the purse that had the
12 belongings of Carmen Rigby in it, as well as the cashbox.
13 There was not a cash register, per se here. The money was
14 kept in this drawer. So this is that drawer.

15 What you are looking at, the frame of reference for this
16 photograph is that I was standing back toward the edge here.
17 And if you recall, the body of Bertha Tardy then would be back
18 here.

19 There is another photograph earlier that I showed you the
20 corner of this in relation to her body. So this is that
21 reference point looking towards the front of the store here.

22 Another thing that I pointed out previously is this crime
23 scene tape here, this barrier. The bodies of Robert Golden
24 and Carmen Rigby then are just on the other side of this, this
25 counter.

26 MR. HILL: This is 28-A that she has made
27 reference to, Your Honor. I don't think I previously
28 asked that it be admitted. I do so at this time.

29 MR. DEGRUY: No objection.

1 THE COURT: I'll allow it to be admitted.

2 (THE BLOW-UP OF PHOTOGRAPH S-28 REFERRED TO AS STATE'S
3 EXHIBIT 28-A WAS ADMITTED INTO EVIDENCE.)

4 Q. (By Mr. Hill:) Miss Schoene, I have here State's
5 29-A, and I would ask you if you -- did you document what was
6 inside the cash drawer that you pointed out in this previous
7 photograph? You pointed out in, I think, 28-A that there was
8 a cash drawer. Did you document the contents of that drawer?

9 A. Yes. This is the cash -- this is the cash drawer
10 that I made reference to in this photograph. It would be
11 right here. And here, this is -- you can make note of that
12 reference by looking at this gray cabinet, being this gray
13 cabinet here. So what this is is the cash drawer, the
14 contents.

15 This is showing the contents of the cash drawer upon my
16 arrival at, at the scene. There is no paper currency here.
17 But there was numerous coins, as well as keys, I believe
18 perhaps an Exxon gas card. I can check my notes to be certain
19 of that. But I think the point perhaps is there is no cash,
20 no paper currency in this drawer.

21 Also, I would like for you to note while this photograph
22 is up the condition, the worn condition here of this drawer.
23 That's fairly significant to -- I don't know if it's okay, if
24 it's appropriate to talk about evidence collection at this
25 time if you are not asking about evidence collection, but
26 while I have this up --

27 Q. Yes, ma'am.

28 A. -- maybe explain some of what I did.

29 If you look at the cash drawer, you see that it, it is

1 worn and somewhat splintered and a rather rough, porous
2 surface. This is very difficult to get fingerprints off of.

3 The best surfaces to obtain fingerprints are highly
4 polished, hard, surfaces. You might think of glass with all
5 the finger impressions, fingerprints on glass.

6 Surfaces like this make it very, very difficult to, to
7 raise fingerprints. Fingerprints just aren't transferred to
8 this sort of material.

9 Q. I take it then that you attempted to take
10 fingerprints off this --

11 A. Yes.

12 Q. -- area here that you pointed out, but did not --

13 A. Right. Right. I did attempt to take fingerprints
14 off of all this wood portion, as well as the counter, which
15 you might be able to see in some of the other images, is
16 fairly rough and scratched.

17 It's an old, older counter. The surface is not polished.
18 It's not smooth. It is not the optimal surface for collecting
19 fingerprints off of. But yes, we did try to collect
20 fingerprints.

21 I did make some lifts of fingerprints around this area,
22 but it is important for their understanding to see the
23 condition. That is a great picture of the enlargement,
24 showing the condition of that cash drawer.

25 Q. Now, this is just a piece of white paper.

26 A. Yes.

27 Q. All right. One other photograph I have for you to
28 look at. Can you tell us -- this is State's Exhibit 45-A and
29 46-A. Can you tell us what those are, please?

1 A. These are enlargements of two black and white images
2 that we -- I talked about and showed you the smaller pictures
3 just before the break. I didn't realize that the State had
4 made enlargements of these or I wouldn't have tried to point
5 out "A", "B", and "C" on those little, bitty photographs.

6 These enlargements show "A", "B", and "C", which
7 correspond to "A", "B", and "C" on the sketch, which
8 correspond to partial footwear impressions that were made in
9 this area.

10 Again, just for reference, this area here is just on top
11 of this ramp. So to locate, to give you more reference,
12 victim Bertha Tardy was found beyond here. Her body had
13 already been removed at the time I set up the tripod and made
14 these examination quality photographs.

15 So her body was here. This is her office, the office in
16 the very back. And this is the same three markers showing
17 "A", "B", and "C". This being towards the front of the store.
18 "A" being the partial footwear impression that was closest to
19 the front door. "C" being the partial footwear impression
20 that was closest to Miss Tardy. (Indicated.)

21 Q. Is this the ramp that you were talking about or the
22 downward aisle? (Indicated.)

23 A. Yes. This is the ramp on the sketch, and this is
24 the bookshelf. (Indicated.)

25 Q. And is this ramp here shown in 46? Is this the
26 entrance way of that ramp going down here to the left side?
27 (Indicated.)

28 A. Yes. What you can make reference to here is this
29 bookshelf. Okay. See this bookshelf here? That is the same

1 bookshelf here. So it's the same area. I just documented it
2 from two different positions. (Indicated.)

3 MR. HILL: Your Honor, we would ask that
4 State's Exhibit 45-A, 46-A and 29-A -- these are the
5 enlargements that have not previously been marked into
6 evidence. We ask that we could do that now.

7 MR. DEGRUY: No objection.

8 THE COURT: I'll allow them to be admitted.

9 (THE BLOW-UP OF S-29 REFERRED TO AS STATE'S EXHIBIT
10 NUMBER 29-A WAS ADMITTED INTO EVIDENCE.)

11 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 45 REFERRED TO AS
12 STATE'S EXHIBIT NUMBER 45-A WAS ADMITTED INTO EVIDENCE.)

13 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 46 REFERRED TO AS
14 STATE'S EXHIBIT NUMBER 46-A WAS ADMITTED INTO EVIDENCE.)

15 Q. (By Mr. Hill:) Okay. Miss Schoene, I've got one
16 additional photo to let you look at. This is State's 38-A. I
17 better double check that. Can you see this -- see this?

18 A. Yes.

19 Q. Can you tell us what that is, please?

20 A. Yes. That is an enlargement of one of the
21 photographs that I explained earlier of the safe - the old,
22 metal safe that was in Bertha Tardy's office in the back. As
23 I mentioned, this was -- this door to the safe was closed but
24 not locked. I could open it up after documenting the position
25 upon my arrival.

26 So this, this is taken in Bertha Tardy's office, which,
27 again, is that back office that I made reference to just
28 beyond where Bertha Tardy herself was found.

29 Her -- the chair here was pushed back. The telephone

1 hook -- the telephone was on the hook. Papers were, were
2 dispersed in a fairly regular way. They didn't seem to be
3 ransacked or disheveled in any way.

4 That is the same for the condition of the contents of the
5 safe. Once I opened the safe, the safe did not appear to have
6 been rummaged through or gone through or -- it was just -- it
7 was fairly neat and orderly on both accounts. The entire
8 office area was quite, quite neat and orderly.

9 Q. Thank you, ma'am. You can -- I am going to let you
10 return to your seat on the stand for just a moment.

11 A. (Complied.)

12 Q. Miss Schoene, I think you were asked -- at some
13 point in time you completed your work in the store; is that
14 right? About how long do you think you stayed there working
15 on this scene?

16 A. I left Winona, the Tardy Furniture store at 6:00 and
17 traveled to the police department and arrived at the Winona
18 Police Department at approximately 6:04.

19 Q. Had one of the investigators asked you to come over
20 there and perform another task?

21 A. Yes. While documenting the scene, the furniture
22 store scene, I was approached by Investigator, Criminal
23 Investigations Bureau Investigator, the Mississippi Highway
24 Patrol, Wayne Miller, and he asked that when we finish up
25 collecting the evidence from the furniture store if we would
26 please travel to the police station to process a glove box and
27 an older model brown vehicle for fingerprints.

28 Apparently, this is what I'm reading from my narrative
29 here. I say that Wayne Miller requested prints on a car. A

1 car had a .380 pistol stolen. 10:30 reported stolen from
2 glove box. The windows were down. The person came back. The
3 owner of the car came back out to the car and found the glove
4 box ajar. Wayne Miller wants us to process the glove box for
5 prints when we finish here.

6 Q. Okay.

7 A. So based on that request by Investigator Miller,
8 upon our completion at Tardy Furniture store, we then traveled
9 to the police department to take a look at this older model
10 brown Pontiac for the presence of fingerprints on and around
11 that glove box.

12 Q. Okay. Did you -- upon your arrival there, were
13 you -- did you secure the identification of that vehicle? In
14 other words, did you record any, any information that tells
15 you what vehicle this is - like serial number, tag number,
16 anything like that?

17 A. Oh, yes. We -- in order to identify the, the
18 vehicle, if necessary, later, we recorded the tag number, the
19 license plate and the vehicle identification number of, of
20 that brown car.

21 Q. Okay. And do you -- I take it you still have those.
22 I'm not going to ask you for that VIN number, but you did
23 record those.

24 A. I'm looking for it. I'm certain -- yes. Yes, sir.
25 I have the VIN number and the tag here. There is actually two
26 descriptions. If you notice, that I am looking from two
27 different sets of notes. I have a set of notes that I took, a
28 running narrative. My partner that, that assisted me in the
29 crime scene also had a notebook and was also taking notes.

1 So what I'm doing now is comparing what she had written
2 and what I had written. So, so that is why I have the two
3 sets here.

4 So yes, that is actually on her information, is the VIN
5 number and the tag number. My, my description says only
6 brown, exterior is brown, glossy paint coating peeling away
7 from the roof.

8 Q. I want to show you these photographs, State's
9 Exhibit 99, 100 and 101. Would you look at those photographs
10 and see if you recognize them, please?

11 A. I recognize this Polaroid picture, which is State's
12 Exhibit Number 100. And it is the back of this older model,
13 brown Pontiac showing the license plate. The license plate
14 corresponds with the license plate that my, my partner has
15 listed on her notes, which is NRG 359. That is the same car
16 here --

17 Q. Okay.

18 A. -- in this photograph.

19 The second Polaroid picture, which is State's Exhibit
20 Number 99, is a photograph of the passenger -- yes, the
21 passenger side of this brown vehicle sitting in the parking
22 lot under a tree at Winona Police Department.

23 And the third exhibit is State's Exhibit 101.

24 Q. What is that a photograph of?

25 A. This, this is a photograph of the glove box, the
26 glove box that we were asked to collect prints from in the
27 condition as it was when, when we arrived.

28 The glove box appeared to have some damage along, along
29 the top part. Let's see. If this was the door and then there

1 is the glove box, you might open it like this, the hinge here.
2 The glove box appeared to have some, some damage along this
3 upper lip on the -- of the, I guess, the casing around the
4 glove box, as well as on the door handle.

5 This -- it also shows the, the condition of the vehicle,
6 which is, again, older model, fairly dirty and dusty, cracked,
7 vinyl dashboard.

8 Q. Did you attempt to, to make latent lifts - that is,
9 to lift any possible fingerprints off that?

10 A. I did actually. I secured a lift from the latch.
11 The latch -- is there an enlargement of this?

12 Q. Yeah. Yeah. Yeah. There is.

13 A. Okay. Maybe they could see it better. The latch is
14 shiny metal, right, which is really a great surface for
15 obtaining finger -- latent fingerprints. So I collected a
16 lift from that latch. The area around the --

17 (MR. HILL HELD UP AN EXHIBIT.)

18 You have to admit that, I guess.

19 Q. I do. You are very good.

20 Your Honor, --

21 Well, first of all, let me ask you this question, Miss
22 Schoene. These photographs that you've identified - State's
23 101, 100, and 99 - these represent the car the way - and the
24 interior around the glove box - as you saw them on that day in
25 July of '96.

26 A. Yes.

27 Q. And I also show you the enlargements. These are
28 marked 99-A, 100-A, 101-A. Do you recognize those as well?

29 A. Yes. Those are three enlargements of the three

1 photographs that I just identified and explained.

2 MR. HILL: At this point I ask they be
3 received, Your Honor.

4 MR. DEGRUY: No objection.

5 THE COURT: I'll allow them to be admitted.

6 MR. HILL: Your Honor, also, we would ask that
7 while we are doing marking, we would ask that State's
8 Exhibit 38-A, that's the enlargement of the office area,
9 Miss Tardy's desk, and the safe, and office, ask that it
10 be received as well.

11 MR. DEGRUY: No objection.

12 THE COURT: I'll allow it to be admitted also.

13 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 38 REFERRED TO AS
14 STATE'S EXHIBIT NUMBER 38-A WAS ADMITTED INTO EVIDENCE.)

15 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 99 ON A BOARD WITH
16 THREE PHOTOGRAPHS REFERRED TO AS STATE'S EXHIBIT NUMBER 99-A
17 WAS ADMITTED INTO EVIDENCE.)

18 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 100 ON A BOARD
19 WITH THREE PHOTOGRAPHS REFERRED TO AS STATE'S EXHIBIT NUMBER
20 100-A WAS ADMITTED INTO EVIDENCE.)

21 (THE BLOW-UP OF STATE'S EXHIBIT NUMBER 101 ON A BOARD
22 WITH THREE PHOTOGRAPHS REFERRED TO AS STATE'S EXHIBIT NUMBER
23 101-A WAS ADMITTED INTO EVIDENCE.)

24 Q. (By Mr. Hill:) Okay. Miss Schoene, if you'll step
25 down, with the Court's permission.

26 THE COURT: Certainly.

27 A. (Complied.)

28 Q. I have the enlargements that you referred to.

29 A. Yeah.

1 Q. I want to draw your attention at this time to, to
2 State's Exhibit 101-A. This is the photograph of the glove
3 box. Would you show -- point out to us where you saw those
4 marks that you were talking about, please?

5 A. This makes it easier to understand, doesn't it,
6 because you can see the image? This is -- this is the glove
7 box that was in this car. What this shows is that this --
8 there is some, appear to be, pry marks here. And we have this
9 nice, glossy surface for latent prints and then the area
10 around that.

11 You can see a bit of the condition of the interior of
12 that car. The dashboard itself, it was an old, dry, cracked,
13 dusty, vinyl dashboard, not conducive at all to collecting
14 latent prints.

15 As a matter of fact, when, when one touches a dusty
16 surface - you may have noticed this around your house - but
17 instead of actually leaving a print behind, depositing a
18 print, if this surface had dust or pollen or some small
19 particular matter like that, what actually happens when you
20 touch it, you bring that dust with you, and you do not leave
21 ridges behind.

22 So this is a -- this is not at all the optimal surface
23 for collecting -- for collecting latent prints. So that
24 describes this.

25 Let me refer to my notes. What I was -- I was asked to
26 examine this area for latent prints. When I arrived at the
27 scene, excuse me, at the police department at 6:04 to dust the
28 vehicle in which the .380 was stolen that same morning, this,
29 this vehicle was sitting outside under a tree with the windows

1 rolled up.

2 Now, you may recall that earlier when the information
3 came in to me the officer had said that someone had leaned
4 into this car -- leaned into --

5 MR. DEGRUY: Your Honor, we are going to
6 object. She is testifying now to what someone else said.

7 THE WITNESS: That is fine. To my notes.

8 THE COURT: I'll have to sustain as to -- I
9 mean I'll have you avoid stating what somebody else said
10 to you.

11 THE WITNESS: Okay.

12 A. So when I arrived, the window was rolled up. This,
13 this window with the glove box being, being right here.
14 (Indicated.)

15 Q. Let me ask you a question. Was -- you said you made
16 note that the vehicle was dusty, the interior was very dusty.

17 A. Yes.

18 Q. And do you know whether or not it rained that
19 afternoon?

20 A. In my notes, I reflect that it, it did. I have the
21 vehicle is sitting outside, under a tree, with the windows
22 rolled up. It has been raining. The car is still wet on the
23 outside.

24 Q. Okay. All right.

25 A. Okay. So then also, in my notes, I said a note to
26 myself. We will dust the window, interior, dry areas around
27 the passenger door and the glove box latch, any sort of
28 surface that we might potentially get a print from.

29 Q. Were you able to -- first of all, did you find any

1 lifts that you thought would be real good, clear lifts in
2 there?

3 A. No.

4 Q. Okay. Did you attempt -- did you make a lift or
5 attempt to lift anything that might possibly have been a
6 print?

7 A. Yes. I did attempt a lift from the latch.

8 Q. Okay.

9 A. In an attempt to be optimistic. Yes, I did. I did
10 effect a lift from that latch. But the difference between me
11 making a lift -- what that essentially means is I dusted the
12 surface with fingerprint powder. I dusted it, deposited a
13 thin film of carbon, basically, very, very fine, particulate
14 matter. And then quite literally come behind that with tape.
15 It looks a lot like packing tape, clear packing --

16 Q. You didn't know if there was a print on there.

17 A. No, I didn't. But, but that is the way I went about
18 doing that. I didn't know if there was a print or not. And
19 you don't know really ever know until you dust. A latent
20 print by definition is a hidden print.

21 So I did attempt to lift a print from that. I did make a
22 lift, put it on a card, labeled that card and submitted that
23 to the crime laboratory for a fingerprint analyst to examine.

24 Q. Thank you, ma'am. You can get back on the stand,
25 please.

26 A. (Complied.)

27 Q. Miss Schoene, I want to go back to the crime scene
28 just a minute. I want to show you some additional pictures.
29 But before I do, did you look at the outside behind the store?

1 Did you document the exterior of the building?

2 A. Yes.

3 Q. Like from behind. And did you further document any
4 other exit ways out of the store?

5 A. Yes. The Tardy Furniture store is situated on the
6 corner. So there was -- there was a wall that was on the
7 outside of the street. The front was facing a street. The
8 side was on a street. As well as the back was in a bit of a
9 alley way.

10 I did walk around the, the wall on -- if you are looking
11 at the store this way, to the right, that goes along -- I
12 don't recall the name of the street, there are several wooden
13 portions there. Those doors did not look operable.

14 And that was the portion of the store -- if you recall,
15 in the very beginning I said that the Tardy Furniture store
16 was divided into two parts. That would be the side of the
17 store that was essentially closed off. So proceeding around
18 then the back of that ally, there is a -- an exit door that
19 appeared to be functional, a wooden door. And I documented
20 the appearance of that from the -- from the inside.

21 (Indicated.)

22 Q. I want to show you State's Exhibit 6. Would you
23 look at that, please?

24 A. State's Exhibit 6 is a photograph that, that I took.
25 I recognize that by my initials on the back. State's Exhibit
26 6 is taken from the inside of the furniture store of this back
27 door with a, a board, a wooden slat essentially, I guess,
28 locking the door, a wooden slat through the handle so the door
29 could not be opened.

1 Q. Okay. So that would have to be removed from the
2 inside; is that right?

3 A. Unless it was broken. Yes.

4 Q. Okay. Of course, when you photographed it, you
5 didn't see it broken?

6 A. No. No.

7 Q. And then I have State's Exhibit Number 7. Would you
8 look at that, please?

9 A. (Complied.)

10 Q. I also would show you State's 8 and 9. If you would
11 look at those.

12 A. These exhibits -- these are color photographs of the
13 back of this building that Tardy Furniture store was housed.
14 The -- Exhibits 9, 8 and 9 are images of the back of the
15 store. They are in the ally way.

16 Q. Okay. And let me ask you this, Miss Schoene. Did
17 you see any other -- other than the front door where you went
18 in, did you, in your examination of the interior, did you see
19 any other open exit from the store?

20 A. No.

21 Q. Was there any other like a back door standing open
22 or a side door standing open?

23 A. No. No. Again, as you come in the door, the right
24 side of the store, it was fairly cordoned off. The lights
25 were out. It was -- it did not seem to be the place where
26 customers were routinely. So there was an exit from the main
27 crime scene. I suppose that -- or at least an opening that
28 way, but that would just get you to that wall of the store.
29 The other exit was the one that, that you just showed

1 from the inside and the outside. And that was -- yes. That
2 State's Exhibit -- (Indicated.)

3 Q. Six.

4 A. -- 6 is the, the inside portion of, of the door that
5 you see in these other exhibits. And no, this was locked from
6 the inside.

7 MR. HILL: Okay. Your Honor, we would ask that
8 State's Exhibit 6, 7, 8 and 9 be received.

9 MR. DEGRUY: No objection.

10 THE COURT: I'll allow them to be admitted.

11 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
12 6 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

13 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
14 7 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

15 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
16 8 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

17 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
18 9 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

19 MR. HILL: Court indulge me just one moment,
20 please, Your Honor.

21 THE COURT: Sure.

22 Q. (By Mr. Hill:) Miss Schoene, I'm going to show you
23 a picture that's marked State's Exhibit 23. And I'm going to
24 ask you to look at it. It is the one you've already testified
25 about earlier. I'm just going to point you in the general
26 direction of that brick column right there. Would you take a
27 good look at that, please?

28 A. Okay.

29 Q. Would you tell the ladies and gentlemen of the jury

1 whether or not if you can see in that photograph a very tiny
2 defect just above the top of -- there is Serta sign or
3 something right there. Can you see a small defect on that
4 white brick column that is shown in that photograph?

5 A. Yes. In State's Exhibit 23 there is a, a wall, the
6 pillar, fairly near the head of, of victim Bertha Tardy.
7 There is a bed, if you recall, that I said her eyeglasses were
8 under, underneath.

9 Adjacent to that bed there is a Serta, a plastic Serta
10 object. And just above that there is a nick or some sort of
11 defect to that brick.

12 Q. Okay. Would you step down here and look at this
13 enlargement, please?

14 A. (Complied.)

15 Q. Ask you to bring that pointer, if you've still got
16 it.

17 A. (Complied.)

18 Q. I'm going to direct your attention to State's
19 Exhibit 23-A.

20 A. Okay.

21 Q. And would you look at the brick column in that and
22 see if you see the defect that you talked about in that small
23 picture?

24 A. Yes. State's Exhibit 23-A corresponds to the
25 smaller photograph of State's Exhibit 23.

26 Q. Use your pointer and point to that where --

27 A. Okay. The defect is here. Again, this is victim
28 Bertha Tardy. Here are her eyeglasses. And here is the
29 defect in the wall there. (Indicated.)

1 Q. Okay. All right. Thank you, ma'am.

2 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

3 Now, you found five casings.

4 A. Yes.

5 Q. You recovered how many projectiles?

6 A. Two projectiles. Two fragments. And one live round
7 or cartridge.

8 Q. Okay. At that time you didn't know exactly how many
9 fragments or bullets or whatever had been -- how many rounds
10 had been fired in the store, did you, at the time you
11 processed the scene?

12 A. Did I know how many had been fired?

13 Q. Right.

14 A. I, I could tell based on the evidence that there
15 were five casings or five shells that were left there. It may
16 have been more. Sometimes people will collect those. I was
17 certain that there was at least five. Yes.

18 MR. HILL: At this point, Your Honor, we would
19 tender the witness for cross-examination.

20 THE COURT: Proceed.

21 CROSS-EXAMINATION BY MR. DEGRUY:

22 Q. Good morning, Miss Schoene.

23 A. Good morning.

24 Q. You, you mentioned these photographs you took of the
25 footwear impressions. That is not just snap and photograph.
26 There's a special technique involved there.

27 A. In taking examination quality photographs?

28 Q. Yes.

29 A. Yes, there is.

1 Q. And, and the accuracy of the photos, it's going to
2 be the examination. Someone else is going to look at that
3 photo and make some comparisons; correct?

4 A. That is the idea behind the technique of examination
5 quality photography. As I started to explain before, not all
6 evidence can be cut out or taken with us to the crime
7 laboratory.

8 So in cases such as that, we take examination quality
9 photographs. And that, that is a whole different type of
10 crime scene photography in which we use a different type of
11 film and additional equipment as well.

12 Q. And the accuracy of that photograph is going to
13 depend on your use of that equipment, the placement of the
14 camera, the use of the flash.

15 A. The accuracy of the photograph. The photograph will
16 look like whatever the photograph looks like, but the accuracy
17 of the impression perhaps.

18 Q. Impression.

19 A. Yes.

20 Q. Yes.

21 A. Definitely. The accuracy of the impression is
22 dependent on the skill and ability of the person who is
23 setting up the tripod. And to do that -- the reason we would
24 use a tripod in the first place to take examination quality
25 photographs is that the use of a tripod -- what I mean by
26 tripod is a three -- it's something that holds a camera that
27 has three legs.

28 What that allows us to do is get the plane of the film
29 that's inside of the camera exactly the same plane as that

1 which is on the ground. So if you are taking an examination
2 quality photograph of something that is on a ramp -- this was
3 not on a ramp. It was near a ramp.

4 But we have a level. And we'll put the level on the
5 ground. And if it reads 20 degrees, then we come up to the
6 camera, where the tripod is, place that level on that tilt at
7 20 degrees so it will be a accurate depiction that's captured
8 on film of the image that we are trying to capture.

9 Another thing that's imperative to examination quality
10 photography is the presence of a scale of some sort in that
11 photograph. And the reason for scale, it allows the
12 photograph to be enlarged.

13 You all have seen the pictures that we are looking at are
14 little 3 x 5's and 4 x 6's. It's impossible for an
15 examiner -- a footwear examiner will not examine a photograph
16 that's that small with a life size shoe.

17 So whether that examination is performed is the
18 examination quality photograph is taken with the -- with the
19 scale in it. And then that photograph -- the film is then
20 developed to the size of that scale, you see.

21 So that way, once the photograph is taken then we can
22 take that, we can have that photograph developed. We take the
23 scale. We say we want one inch that, that you see here in the
24 scale to be enlarged to one inch true size.

25 And that allows us to do a one-to-one, if you will,
26 comparison of an impression with, with the actual shoe.
27 Actually, it's a test impression of a shoe. But that allows
28 for the one-to-one size.

29 Q. How many photos did you take of the impressions?

1 A. I would need to look. I would imagine probably two
2 rolls, at least two rolls of black and white film.

3 And again, the, the film that we use to take examination
4 quality photographs is not the same as the color film that we
5 use to document the crime scene. We use black and white film,
6 because there is more of a contrast between solid black and
7 solid white.

8 And that allows the examiner to see all the different
9 shades of gray that exist. And we don't have that sort of
10 precision in contrast with, with color film.

11 It kind of goes against conventional wisdom that black
12 and white is going to give you more detail but, but it
13 actually does. So for this case, I would -- I would estimate
14 that I took -- generally I take at least one roll, sometimes
15 two of, of just one or two footwear impressions.

16 It's a laborious process where the tripod is set up. The
17 scale is placed, and then a detachable flash. It's a flash
18 bulb, but it is attached by a wire. And that allows the
19 person using it to go to different angles and heights to hit
20 that impression, whether it be a footwear impression or palm
21 print or even a fingerprint, any sort of impression evidence
22 that can't be taken to the crime lab.

23 That gives us a greater range of ability to enhance
24 those, those impressions. So I, I don't know how many I took.
25 I imagine I would have turned all of - the entirety of those
26 black and white, whether it be one roll or two rolls - in to
27 the crime laboratory as the film canisters.

28 And I don't know how many were enlarged after the ones --
29 after I took the photographs. I am certain that the examiner

1 did not enlarge all of them.

2 Q. So you just shot the film.

3 A. Yes.

4 Q. And two rolls would be 48 pictures or...

5 A. That would be -- yeah, two rolls of film would
6 contain a capacity for 48 pictures. But that in no way means
7 that there would be 48 examination quality photographs.
8 Because when one is taking the pictures, you can't be sure
9 when you are changing the light angle what the film is going
10 to capture. For example -- may I get up?

11 THE COURT: You may.

12 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

13 A. If, if there is a footwear impression, say, on a
14 surface like this is, and I had a tripod. What I would do
15 with that oblique light source is hold it -- you know, start
16 off with holding it about 45 degrees, take a picture, take a
17 picture, take a picture.

18 Well, then I might you know, raise it and lower it. And
19 the angle of the light can enhance the impression to varying
20 degrees. So if I would have submitted, say, two rolls of
21 film, my idea probably is that the examiner who did this would
22 flip through those and pick probably roughly two to three
23 images.

24 And that's, that's just a guess. You would have to ask
25 the examiner that did it, but I would probably pick two or
26 three of the best images to use for comparison purposes.

27 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

28 Q. The -- now, you said you lifted -- you lifted
29 prints. You tell us lifted prints from the car and submitted

1 those to someone else for examination.

2 A. I submitted lifts from the car.

3 Q. Yes.

4 A. Right. So a fingerprint examiner, someone that is
5 trained to look at the lift and compare it to, to a known, a
6 known fingerprint, that is the person who would determine
7 whether or not those lifts were actually of value, of value to
8 be compared to something else.

9 Q. And I understand you didn't do any comparisons, but
10 you did -- you did lifts from the car. And you also -- did
11 you say you did lifts from the counter in the store?

12 A. Yes, I also made -- attempted to obtain fingerprints
13 from areas in the -- in the furniture store, as well as in the
14 car. And again, the way that -- the way I do that is take the
15 area, dust it with a brush that leaves a black powder. Then
16 take a piece of tape, lift that and put it on a -- basically,
17 a index card.

18 And that index card -- on the back of the index card is
19 the description of where that lift was taken from. So the
20 descriptions of all of those lifts would be on the back of
21 those index cards. But yes, I did take lifts from the
22 furniture store itself, as well as, I believe, a lift from the
23 vehicle and submitted those to the latent fingerprint section.

24 Q. Okay. Now, this, this photograph of the cash
25 drawer. You, you explained to us about this wood area just
26 not being conducive to trying to lift prints; correct? That
27 was your testimony?

28 A. Yes. It's not -- it's not a very good receiving
29 surface, because it is rather porous. And it's, it's just a

1 rough surface. Rough surfaces, generally textured surfaces do
2 not hold latent prints very effectively.

3 Q. And when you told us about this glove box, you said
4 the handle of the glove box.

5 A. Yeah.

6 May I?

7 THE COURT: You may.

8 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

9 Q. The knob on the glove box, that was a good...

10 A. This. This. (Indicated.)

11 Q. Yes.

12 A. Of all the areas there, that would have been the
13 best place to -- the best receiving surface I would say for a
14 latent fingerprint.

15 Q. A metal surface.

16 A. Yes.

17 Q. Like this handle on this.

18 A. Yes. Yes. Like that handle.

19 Q. And did you attempt to take any lifts from there?

20 A. Yes. We, we dust, or my partner and I dusted, all
21 around the counter space, all around this area. Again, as to
22 the exact location, I would need to refer to the back of the
23 index cards to effect -- to explain exactly where the lifts
24 were taken from. But yes, this entire area was dusted, was
25 dusted.

26 Q. I'm asking about this --

27 A. Yes.

28 Q. -- metal handle.

29 A. Yes. Yes. Yes.

1 Q. So you are telling us you did dust the metal handle.

2 A. Um-hum.

3 Q. Looking at that picture with, with your expertise in
4 fingerprint retrieval or latent print retrieval, you would
5 look at that and say wow, the only place I might get it is
6 that handle.

7 A. Well, again, I like to be optimistic. So I would
8 try to do all of the surfaces. But that, in my opinion, would
9 be, just based on what you see on this picture here, would,
10 would be a very strong receiving surface. That, that metal,
11 the shiny metal portion or fairly, fairly scratched metal
12 surface, but shiny nonetheless.

13 Another contributor to perhaps not receiving, a surface
14 not being a good surface for receiving a print might be -- I
15 told you that it was scratched. But also if it's involved in
16 a great deal of motion or if there is smudges.

17 If you think about a door. If you walk into like a
18 bathroom stall or even one of these doors that you touch with
19 so much repetitive touching, an overlap of touching, the, the
20 likelihood of smudging is, is very great.

21 So if I when I dusted this were to have observed ridges,
22 I would have made a lift in the same way and manner that I
23 described before. Would dust it. Put tape over it. Pick it
24 up and place it on a -- on a note card. And again, to be able
25 to tell you whether or not there was a print on that, I would
26 need to look at the back of the note card.

27 Q. You don't have anything in your notes of where you
28 took lifts from.

29 A. I took -- I don't believe that there is anything --

1 I don't believe that I would be that specific as to something
2 to that degree. I would just say dusted the safe or
3 countertop and that sort of thing. That term is all inclusive
4 to me, meaning that anywhere in that area that would -- that
5 could receive -- that could receive a print, I would dust for.

6 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

7 Q. You told us when you arrived that that drawer was
8 closed.

9 A. Yes. Upon my arrival, my original scene
10 documentation, this drawer was in the closed position. It was
11 open to photograph and document the, the contents on the
12 inside of that.

13 Q. And you made a big deal of telling us about the
14 contents and the absence of any cash currency.

15 A. I don't -- I can read for you. If I recall, I said
16 I was doing that from my memory, and I could refer to my notes
17 to give you a more detailed description.

18 Q. I believe you testified here this morning that you
19 took the picture to show there was no currency.

20 A. I took the picture to document what was there, not
21 to show that there wasn't currency. Simply to document the
22 state of the drawer when I was there. But if you will just
23 give me a second, I can tell you what was in that drawer, just
24 to be more clear.

25 Okay. If I may read from my notes.

26 THE COURT: You may.

27 A. My notes indicate that the money drawer had no
28 bills. All types of coins, pennies, nickels dimes and
29 quarters, several sets of keys, an Exxon card and an envelope

1 containing two checks. That was what was documented to be in
2 that drawer.

3 Q. The drawer itself, the insert with the coin
4 sections, what is -- what material is that?

5 A. I can tell you that it's well worn metal. It looks
6 to be something, maybe, copper coated with some sort of zinc.
7 I don't know what the -- what the material break down is.
8 It's a well worn metal, well worn metal surface I would say.
9 And well, -- yes.

10 Q. A better surface for getting fingerprints than the
11 worn wood around it; correct?

12 A. It's only better if we can raise a print on it.

13 Q. Did you try to raise a print?

14 A. Again, I dusted the entire contents. I, I dusted
15 what you see there and, and effected the lifts, labeled the
16 cards as I collected lifts, if there were any evidence of
17 ridge detail on those lifts. And you can tell by holding it
18 up and looking or even just placing it on that card, one can
19 make the determination as to whether or not there is ridges.

20 Now, whether or not those ridges are of comparison value,
21 that is something that I, I would not make that determination
22 at scene. I would certainly collect those, place them on a
23 card and let a latent print examiner examine those lifts in a
24 much more controlled environment.

25 Q. Now, would you agree that if someone was going to go
26 into this drawer --

27 A. I might have to stop you, because I don't know what
28 someone would have to do to go into that drawer. I am
29 definitely not an expert on what someone would have to do. I

1 am looking at the same picture you are.

2 Q. And you would have no opinion on whether or not
3 using the handle and reaching in to take money out would --
4 those would not be the most likely parts of that drawer that
5 would be touched in doing that.

6 A. I don't know if the door was -- if the drawer -- and
7 I'm just -- this is -- I don't -- I was not there. I don't
8 know if the door -- if the drawer was open or closed at the
9 time the crime occurred. I, I can make no, no, no account of
10 that whatsoever.

11 Q. You have no idea whether the drawer has anything to
12 do with any crime.

13 A. You're absolutely right. I don't have any idea of
14 either.

15 Q. But the drawer was closed when you got there.

16 A. The drawer was closed upon my arrival at the scene.
17 Yes.

18 Q. And you made no specific notation of attempting to
19 lift prints from the handle of the drawer.

20 A. I did make notes that I dusted the counter area.
21 And that is paramount, front and center of the counter area.
22 So yes, I did say in my notes I attempted to collect prints
23 from the counter area, the cash drawer being included.

24 Q. You made specific reference to what the drawer was
25 made out of - the wood, the old wood - to explain why you
26 didn't think you were going to get prints there.

27 A. In my notes?

28 Q. In your testimony.

29 A. Yes. In my testimony I made that distinction by

1 looking at the picture and explaining that to the jury. That
2 is exactly right.

3 Q. Now, you examined the purse that you said had the
4 belongings, the identification of Miss Rigby.

5 A. Yes, I did.

6 Q. It also had money in it; is that correct?

7 A. It did.

8 Q. And that was clearly visible.

9 A. I believe that it was. If I could refer to my
10 notes, I will be much more specific.

11 If may I read from my notes?

12 THE COURT: You may.

13 A. This is documentation. I told you we did it from
14 the photographs, narrative and sketch. This is my narrative
15 that I will read from that will explain the documentation
16 here.

17 I have the purse of Carmen Rigby. It's a larger, tan
18 cloth purse. It's located on the floor behind the counter.

19 Okay. And you had seen that in the sketch and also in a
20 few photographs, I believe.

21 Counter and counter area, all drawers are closed. Neat
22 and orderly. Wallet showing. Wallet with \$10 bill exposed.

23 So yes, sir. There was a \$10 bill that was clearly
24 visible in Carmen Rigby's purse.

25 There was also a set of keys, another set of keys and a
26 checkbook, Community Baptist Church checkbook. Check Number
27 400 showing.

28 Q. And you also checked the contents of Mr. Golden's
29 wallet.

1 A. Yes. There was cash in Mr. Golden's wallet, as
2 well. I believe it totaled \$51.

3 Q. And Miss Tardy's purse.

4 A. Miss Tardy's purse contained \$3.

5 Q. Now, you testified that you are looking at this
6 picture and you see pry marks on this glove box.

7 A. Yes. What appeared to me to be pry marks.

8 Q. Now, you have given sworn testimony on four previous
9 occasions in this case; correct?

10 A. Yes.

11 Q. The first time you testified, which would have been
12 1998, you were asked about damage to the glove box and you
13 said you did not examine the glove box. Specifically said I
14 strictly lifted prints.

15 A. Would you like -- would you like to list this and me
16 go back, or may I explain? Or are you going to ask a
17 question?

18 Q. Did you testify to that in 1998?

19 A. Would you say that again, please?

20 Q. In response to a question about the damage to the
21 glove box you said you did not examine the glove box. You
22 strictly lifted prints.

23 A. That is correct. I did not examine -- if I may
24 explain that. I did not examine the glove box to the extent
25 of taking what we call Microsil impressions to try to do a
26 comparison between a particular object and the pry marks. So
27 that is exactly right.

28 I did not attempt to make an examination. We did not
29 have a known object to compare the pry marks to. So that is

1 exactly right.

2 Q. So there was no, no object in the car that you saw
3 that could have been used to pry this open.

4 A. I don't know what was used to pry it open.

5 Q. Now, you testified back 1998 that you didn't recall
6 or note any damage.

7 A. Okay.

8 Q. Are you trying to tell me in your answer just now
9 that you remember seeing this damage, that you just didn't do
10 anything about it?

11 A. My reason for going to examine the vehicle was to
12 collect based on what was information that was previously
13 provided by Investigator Wayne Miller while I was at the scene
14 of Tardy Furniture. The request was to dust that car or
15 collect latent prints from that area based on a scenario that
16 had come in on a police report.

17 So I was -- I was not asked to examine that, nor to do
18 any sort of comparative analysis or evidence collection
19 towards any sort of damage to the car.

20 Q. And you didn't write down anything in your note that
21 you even -- in your notes that you even noticed any damage.

22 A. Let me see. Well, again, damage is an odd thing.
23 Because damage, I don't have first-hand knowledge as to when
24 that occurred. So damage is, is a word I might not use.
25 Defect, perhaps.

26 Q. Okay. Defects.

27 A. Right.

28 Q. You didn't note any defects?

29 A. No. But -- not on my observation. I did note it

1 based on -- it is in my notes as a part of the information
2 that was provided to me on the front-end by Investigator Wayne
3 Miller. When I was at the furniture store and he had asked to
4 come -- to give the back story of this --

5 Q. I'm not asking --

6 A. -- particular car.

7 Q. I am not asking you --

8 MR. EVANS: Your Honor, I ask she be allowed to
9 explain her answer.

10 THE COURT: Wait. I don't want to hear but one
11 at a time talk. The court reporter can't take down but
12 one person at a time.

13 Have you got an objection?

14 MR. EVANS: We would ask that she be allowed to
15 finish her answer.

16 MR. DEGRUY: Your Honor, when the witness is
17 answering with hearsay, I have a right to object.

18 MR. EVANS: Not if it's in relationship to her
19 being able to explain her answer.

20 THE COURT: She can explain her answer without
21 getting into any statement that Mr. Miller told her. So
22 if you want to do that at this time.

23 THE WITNESS: I'm not exactly sure what you
24 mean.

25 THE COURT: I mean you can't specifically say
26 what Mr. Miller told you, but you can explain what you
27 did as a result of what information you received from Mr.
28 Miller.

29 THE WITNESS: Okay. I think I have done that.

1 Q. (By Mr. de Gruy:) Well, back -- I'll ask you
2 another question about testifying in 1999.

3 A. Okay.

4 Q. When you were testifying under oath at that time,
5 same subject matter, you said you had no recollection of any
6 signs that the glove box was broken into. Is that correct?

7 A. Could you read the question that I answered, that
8 was my answer -- that I gave that answer to? Because again,
9 for me to be able to form a conclusion as to whether or not
10 something was broke into or not, that is not for me to say,
11 nor do I know how long those pry marks had been there. You,
12 you -- yes.

13 Q. Do you remember the condition the glove compartment
14 was in that you examined? Your answer was I believe it was
15 open. Question, did anybody ask you to examine it to see if
16 that glove box had actually ever been broken into or anything
17 of that nature. Your answer, no, sir.

18 A. That is exactly right.

19 Q. Okay. So no one asked you to do that. No, sir. So
20 you don't have any recollection of any signs that it had been
21 broken into, do you?

22 A. Outside of the image of that picture, no, that, that
23 testimony is correct.

24 Q. Okay. So now, nine years later, you look at the
25 picture and now you see something that you didn't see when you
26 were there, you didn't see when you testified in 1998 and you
27 didn't see when you testified in 1999.

28 A. Do I see something different now? Is that what you
29 are asking?

1 Q. Yes.

2 A. I see additional. I see something additional. I
3 don't see anything different. That, that is the same glove
4 box and the same car that I did examine in 1996.

5 Q. Just back in '96 and in '98 and '99, it didn't
6 appear to be pry marks and now it does.

7 A. Well, I was not asked to -- you have to take into
8 account the framework of what you are asking. I was not asked
9 to examine the vehicle for any sort of damage. I was asked to
10 examine the vehicle for latent prints. So the focus of my
11 documentation would be -- would not include that.

12 But looking at a photograph, I can clearly see that the
13 pry marks are there. And I'm certain that that is the car and
14 that is the glove box. So I don't -- there is not -- I don't
15 see a -- I don't see a difference there other than just to
16 tell you I was not asked to examine that car for pry marks or
17 asked to do any sort of comparative analysis for pry marks.

18 So that -- so therefore, that would not be the emphasis
19 of, of my going to the scene to look at the car.

20 Q. But you'll agree that you were asked in two
21 different hearings about seeing any damage, and you said no.
22 Seeing any defects. What you are now calling pry marks.

23 A. My -- what I'm calling pry marks is, again, based
24 off of information that was received from an officer when I
25 was first asked to respond, to go assist to collect evidence
26 from that vehicle.

27 Based on the story that -- I understand I'm not allowed
28 to say what the back story of my going to the scene, to
29 examine the car for prints. But that, that description did

1 contain pry marks or pry -- was broken into, I believe.

2 Q. So you are telling us now that you had this
3 information.

4 A. Yes.

5 Q. That right now is very important to you. But back
6 then you had the information, but because you were given a
7 specific, narrow task, just lift prints, you didn't worry
8 about anything else.

9 A. Is that what I'm telling you?

10 Q. That is what it sounds like.

11 A. Is that your question to me - is that what I'm
12 telling you?

13 Q. Yes. Yes.

14 A. I, I went to the crime scene -- well, the car, to
15 fulfill the investigator's request. That was what I was
16 dispatched to do, and that is what I did. I assisted him in
17 his investigation in the way that he requested.

18 Q. And you made no notation, nothing in your notes
19 about seeing any defects or what you are now calling pry marks
20 on that box.

21 A. I did not make any notation of that in my notes.

22 Q. And you testified twice previously that you didn't
23 recall any damage or defects.

24 A. I don't know that I would unless that was the reason
25 that I was called to the scene. I'm looking at the picture.
26 That, that is -- that is evidence to me of the defects to the
27 glove box.

28 THE COURT: Counselor, I think at this time we
29 are going to recess. I think they have lunch for the

1 jury about probably ready, because I think they try to do
2 it right at 12:00. So we will recess until 1:00.

3 Ladies and gentlemen of the jury, during this recess
4 I will caution you, like I have and will throughout the
5 trial, that you cannot discuss the case with anyone or
6 among yourselves. And you obviously can't talk to the
7 bailiffs about the facts of the case either. And with
8 that, we will be in recess until 1:00.

9 (COURT RECESSED FOR THE NOON HOUR.)

10 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
11 CARTER AND THE DEFENDANT WERE PRESENT. PROCEEDINGS IN OPEN
12 COURT WERE AS FOLLOWS:)

13 (THE JURY RETURNED TO THE COURTROOM.)

14 THE COURT: Court will come back to order. You
15 may proceed.

16 Q. (By Mr. de Gruy:) Miss Schoene.

17 A. Yes.

18 Q. I just have a few more questions for you. I'd like
19 to ask you a few more questions about this car that is State's
20 Exhibit 99-A.

21 A. The photograph.

22 Q. The photograph of that car. The car that you dusted
23 for prints.

24 A. May I come down and see which of those is the "A"?

25 Q. Yes.

26 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

27 A. Okay.

28 Q. That's a two-tone brown Pontiac.

29 A. Is that a two -- in that picture?

1 Q. Yes.

2 A. Well, that is a brown Pontiac Phoenix LJ. This
3 is -- this car -- if you recall, I said I have my notes, and
4 then I have my, my assistant's notes.

5 My notes state this is a brown, glossy paint coating
6 peeling away from the roof. This car. I explained it as
7 brown, glossy paint coating peeling away from the roof on the
8 passenger side.

9 My partner described this as a two-tone brown Pontiac
10 Phoenix LJ. Again, with the VIN number and the matching tag
11 number NRG 359.

12 Q. Going back to your testimony in '98, you testified
13 at that time that it was a two-tone brown car.

14 A. Her notes reflect that it is a two-tone brown. My
15 notes reflect that it is just brown.

16 Q. And you can see --

17 A. Well, I can't necessarily make that determination
18 from the picture. I can say that it's brown. I have
19 absolutely -- won't dispute it's brown. But the way that this
20 picture is taken, I'm not -- I can't tell necessarily from the
21 picture that it's two-toned based on the sun. This shiny --
22 it almost looks like there is a white stripe there based on
23 the photograph. So no, I wouldn't say based on the
24 photograph.

25 I know this is the correct car though based on the tag
26 number that matches the tag that I documented. So I said it
27 was brown. My partner said it was two-tone brown. I
28 described it as brown, glossy paint coating peeling away from
29 the roof on the passenger's side.

1 Q. So in your notes you said it was brown.

2 A. In my notes I indicated that the car was brown.
3 Yes.

4 Q. I am asking you about your testimony in 1998.

5 A. Okay.

6 Q. In 1998 you were asked if you could describe the
7 vehicle that you dusted for fingerprints. And your answer was
8 yes, sir. It was a two-tone brown Pontiac Phoenix.

9 A. Okay.

10 Q. Do you agree that was your testimony?

11 A. I don't dispute that simply because that is what my
12 partner noted, that it was two-tone. I noted that it was
13 brown in my notes. Again, brown in my notes. Two-tone in her
14 notes. I'm not -- there is no question this is the same car,
15 because the tag matches.

16 The discrepancy between two-tone and monotone or any
17 other description, I, I don't dispute that. I have recorded
18 brown. She has recorded two-tone. And the picture, again, I
19 can't really tell from the picture. So both descriptions --
20 they don't dispute one another. They are actually in
21 accordance with one another in they are both brown.

22 Q. After your testimony in 1998, whether the car was
23 monotone or two-tone became an issue in the case.

24 A. Not to me it didn't. It doesn't matter to me if
25 it's monotone or two-tone. Maybe it did to you, but it didn't
26 to me. I mean I take your word on that. But you are trying
27 to give me hearsay, like I couldn't do earlier.

28 Q. Are you saying -- well, you testified at a later
29 hearing that this car was not two-tone.

1 A. This car that we are looking at here is the one in
2 question with the tag number matching my notes. Okay.

3 Q. Yes.

4 A. Okay.

5 Q. You were asked was it two-tone. And you said no, it
6 was not two-tone. That was just a few months ago, about last
7 November. Do you recall testifying then that it was not
8 two-tone?

9 A. Yes. I do recall that. Based on my notes that I
10 would have been looking at that just said brown. I, I
11 maintain that it's a brown car.

12 Whether or not it's two-tone or three-tone or even five-
13 or six-tone because paint is peeling away. That is not really
14 my concern so much as did I look at the right car.

15 Here is the tag that matches the tag in my notes. So I
16 have no doubt that this is the car that I looked at - whether
17 it's one, two, three, five, seven or ten different colors of
18 brown. It's an older Pontiac. I don't dispute how many
19 tones.

20 Whoever wants to say it's more than one, three, it
21 doesn't -- I don't -- I don't have any way to qualify or
22 quantify that observation from other people.

23 Q. Why did you come into court and tell us it is not
24 two-tone?

25 A. I just told you. I have it in my notes that it's
26 brown. I didn't make a discrepancy or differentiate
27 between -- well, actually, I said glossy paint coating peeling
28 away from roof.

29 That -- my notes say brown. My notes don't say two-tone.

1 My partner's notes say two-tone. So we agree that that is the
2 right car, because it matches the tag number and that it is
3 brown.

4 If it's more than one tone or one shade of brown, it's
5 brown. It's a brown car. That is what my notes reflect, as
6 well as her notes reflect.

7 Q. Her notes clearly reflect it is two-tone.

8 A. Yes. Her notes clearly reflect that it is two-tone
9 with that tag number.

10 Q. Your --

11 A. My notes just say that it is brown.

12 Q. Your testimony in 1998 was it is two-tone.

13 A. Okay. I assume then I was reading off of her notes
14 when I said that.

15 Q. And you've used both of these notes.

16 A. I don't think -- I must not have looked at her notes
17 whenever I said it was monotone, because my notes say brown.
18 And so I don't know that I had her notes whenever I said that
19 they weren't -- that I -- that I said that it was monotone,
20 because based on what I have written brown, brown is brown.

21 Q. Didn't you do more than just say looks monotone to
22 me? You gave what amounted to an expert opinion on why it
23 appeared to be two-tone?

24 A. I gave an expert opinion on the paint color?

25 Q. This is the question to you.

26 A. Okay.

27 Q. Now, you also said that this car was only a single
28 color. It was not a two-tone car. Is that correct? Your
29 answer, right. It was a brown Pontiac Phoenix LJ is the

1 model, with the license plate that you see displayed here.

2 Okay. This is the question. Okay. And what -- do you
3 have an opinion about why that is there appears to be a dark
4 stripe there on the car that everyone, including your partner,
5 has seen? The dark stripe.

6 A. Okay. Well, I, I see that. Based on this picture,
7 I'm not certain that, that -- I can't tell.

8 And perhaps you can. Maybe you have better eyes. I
9 would not testify that I can discriminate between monotone,
10 two-tone, three-tone, four-tone based on this picture because
11 of the reflection of the sun.

12 If you look at this picture -- you guys are looking at
13 this too, if you can see it. Just look at the picture. You
14 glance at this.

15 One might say that has a white stripe, doesn't it? It
16 looks like it could have a white stripe. But it doesn't have
17 a white stripe. That is the way that the sun is bouncing off
18 of the curve of the car it makes it look like it might have a
19 white stripe.

20 Q. Are you talking about this very irregular line here?

21 A. Yes.

22 Q. Okay. You're not talking about the very clear
23 straight dark color at the bottom.

24 A. This darker shade. Well, it looks like a darker
25 shade. Is that what you are talking about?

26 Q. Below this molding right here. From this point
27 down. (Indicated.)

28 A. So you are saying under the curve there.

29 Q. And so --

1 A. I am asking you. Is that what --

2 Q. No. I'm asking you that.

3 MR. EVANS: Your Honor, she is trying to
4 clarify what he is asking.

5 THE COURT: If you will clarify the question,
6 she can answer it.

7 Q. (By Mr. de Gruy:) That is what I'm asking.

8 A. So your question is does this part where the car
9 curves under, does that portion -- does that appear darker?

10 Q. Yes.

11 A. Is that due to the paint color, or is it due to the
12 way the curve, the car and the sun? I can't tell based on
13 that picture.

14 My notes say that it is brown. Her notes say that it is
15 two-tone. I don't dispute her, her recollection of this being
16 a two-tone car. But based on the picture, I'm not comfortable
17 saying oh, heck, yeah, that's two-tone. I'm just not.

18 Q. You're not comfortable today saying that. But you
19 were quite comfortable coming in here in November and saying
20 well, it is certainly one brown, but the way that this picture
21 is taken with, you know, the curve of the car, with the sun
22 being overhead, it appears the reflection makes it almost look
23 like there is a white stripe or something there. But no, it's
24 a monotone brown vehicle.

25 So you had absolutely no trouble at all last November
26 saying this is -- as an expert testifying before the Court,
27 this is -- you were asked for your opinion as an expert
28 witness. This is a monotone brown car.

29 A. What was your question?

1 Q. My question is --

2 A. Did I have any problem saying that it was a brown
3 car that matched the tag that we have? No, I didn't actually.
4 I read right off my notes that it was a brown car.

5 Q. No. Miss Schoene, your notes don't say this is a
6 monotone brown car.

7 A. Nor did I represent to you that they did. I simply
8 said that my notes say that it is a brown car.

9 I didn't -- just like a brick house. A brick house can
10 be a brick house. It can also be a brick house with a red
11 door. It's still a brick house. However you want to slice it
12 up and try to reframe it, it's still a brown car that matches
13 the tag number of what we have in our notes.

14 Q. It is certainly different to say that a brick house
15 is a brick house and a brick house with a red door is a brick
16 house with a red door. It's another thing to say the brick
17 house with a blue door, when it actually has a red door.

18 A. You're absolutely -- that would be true. That would
19 be a different statement.

20 Q. Yeah.

21 A. Because it would have a blue door.

22 Q. And you came in and you said I can definitely -- I
23 have an opinion, and this car is monotone brown, a single
24 color brown. I have an opinion on that.

25 Today you are coming in and saying well, I wouldn't form
26 an opinion at all based on this.

27 A. My opinion, sir, and I don't know how else to say
28 this is that that is a brown car. My notes say brown, with
29 some issues with the paint, glossy paint coating peeling away

1 from the roof. And my partner's notes say car, two-tone brown
2 Pontiac Phoenix LJ, older model.

3 The tag number of this car matches the tag number that is
4 photographed there in State's Exhibit 100-A, which, as I
5 recall, is an enlargement off of State's Exhibit, color
6 photograph, 100.

7 Q. In 1996 it appeared brown to you.

8 A. It appears brown right now. It is brown.

9 MR. EVANS: Your Honor, this issue has been
10 thoroughly covered. I would object.

11 Q. (By Mr. de Gruy:) You have now testified in 1998
12 that it is two-tone. You testified last November that it
13 absolutely certainly was monotone, and today you're just not
14 sure.

15 A. No. I'm very sure, sir, that that is the car.

16 Q. I'm not asking you if it's the car. I'm asking you
17 if it's monotone or two-tone.

18 A. My notes have that it is a brown car.

19 Q. I'm not asking you what your notes have. I am
20 asking you was the car monotone or two-tone? Which time were
21 you telling the truth?

22 MR. EVANS: Your Honor, I object to that form
23 of the question. That is improper.

24 MR. DEGRUY: I have no further questions of
25 this witness.

26 THE COURT: I'll sustain the objection.

27 Any redirect?

28 MR. HILL: Just one or two questions.

29 REDIRECT EXAMINATION BY MR. HILL:

1 Q. Miss Schoene, when you were originally requested to
2 make your examination concerning this vehicle, were you
3 requested to do any scientific examination or analysis of the
4 paint on the exterior of the car?

5 A. No, sir, I was not.

6 Q. Did you attempt to do any such scientific
7 examination on the paint on the exterior of the car?

8 A. No, sir, I was not.

9 Q. And I take it then it was not your purpose or focus
10 or intent to examine the paint composition on the exterior of
11 the car.

12 A. No, sir. But we do have the capability to do that
13 at the crime lab, if I was asked to do that.

14 Q. If you were requested to do so.

15 A. Right. To do a paint analysis. Yes, sir.

16 Q. Now, you also talked about the defects on the glove
17 box. The picture shows what you saw; is that correct?

18 A. Yes, sir.

19 Q. And --

20 A. That's the interior of the car. That's the glove
21 box.

22 Q. And if I understood your testimony correctly, you
23 were given some background information about what the police
24 officers thought or knew about the car, the glove box.

25 A. (Nodded.)

26 Q. When you examined it and you took that photograph,
27 you were not asked to examine the glove box for tool mark
28 impressions or anything like that; is that correct?

29 A. No, sir, I was not.

1 Q. But you did document, via the photograph, what you
2 saw.

3 A. Yes, sir.

4 Q. And one other question. You were asked about
5 prints. Just because somebody touches a surface with their
6 hand does not automatically mean they left a usable or ridge
7 detail on that surface, does it?

8 A. Unfortunately not.

9 MR. HILL: No further questions, Your Honor.

10 THE COURT: You may step down. You are excused
11 as a witness and free to go.

12 THE WITNESS: Thank you.

13 THE COURT: Who would be your next witness?

14 MR. EVANS: Patricia Sullivan.

15 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
16 BENCH.)

17 THE COURT: Come around, please. Face the
18 bench. Raise your right hand and take the oath.

19 Do you solemnly swear or affirm that the testimony
20 you give in this case will be the truth, the whole truth
21 and nothing but the truth, so help you God?

22 THE WITNESS: Yes, sir.

23 THE COURT: Come around, please, and have a
24 seat.

25 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

26 THE COURT: State your name, please.

27 THE WITNESS: Patricia Hallmon Sullivan Odom.

28 THE COURT: You may proceed.

29 PATRICIA HALLMON SULLIVAN ODOM, Called on behalf of the

1 State, having been duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION BY MR. EVANS:

4 Q. Good evening.

5 A. Good evening.

6 Q. Patricia, what did you say your last name was now?

7 A. Odom.

8 Q. Odom.

9 A. (Nodded.)

10 Q. I believe you've remarried since we last talked,
11 hadn't you?

12 A. Yes.

13 Q. Patricia, I want to direct your attention back to
14 July 16, 1996. Where were you living at that time?

15 A. Winona, Mississippi. McNutt Drive.

16 Q. McNutt.

17 A. Um-hum.

18 Q. What house or apartment number?

19 A. It was 700-B McNutt Drive.

20 Q. All right. How long had you lived there?

21 A. Well, I lived there a total of ten years.

22 Q. Okay. Do you remember when you moved in?

23 A. Yeah. I think it was 1991. Between 1990 and 1991.

24 Q. Patricia, I want you to speak up a little bit so
25 that everybody can hear you.

26 A. Between 1990 and 1991.

27 Q. All right. Thanks. Did you know a person by the
28 name of Curtis Flowers?

29 A. Yes, I did.

1 Q. How did you know him?

2 A. I have been knowing him for a while. I been knowing
3 him because well, I had a cousin to go with him. And I knowed
4 him from coming to Carrollton and also, my sister have a baby
5 by his brother.

6 Q. Okay. So you had a lot of connections with him.

7 A. Well, not a lots. I know -- I had enough to know
8 him.

9 Q. Okay. On July 16, 1996, where was he staying?

10 A. With Connie. With Connie Moore at 702 McNutt Drive.

11 Q. All right. You were staying at 700, and he was
12 staying at 702 McNutt Drive.

13 A. Um-hum.

14 Q. And who did you say? Connie? He was staying with
15 --

16 A. Connie Moore.

17 Q. Patricia, I want you to explain to the ladies and
18 gentlemen of the jury what those -- 700 and 702, how close are
19 these?

20 A. Less than five feets apart. They just right next
21 door. There is two. Two units is "A" and "B" units. And I
22 was staying in "B", and they was in "A". And then -- I can
23 look out of my side door and right on the side of her house.

24 Q. So we are talking about just five feet apart.

25 A. Right. Or less.

26 Q. Do you remember the day of the murders at Tardy
27 Furniture?

28 A. Well, I can remember, you know. Yeah, I can
29 remember.

1 Q. Do you remember when that happened?

2 A. Yes.

3 Q. Do you remember seeing Curtis Flowers that day?

4 A. Yes, I did.

5 Q. What was the first time you saw him that morning?

6 A. The first time I saw him that morning was when I was
7 on my early morning walk. And I was headed -- I had went
8 already around the block, and I was headed home. But I have
9 to pass their apartment before I go to my own. So he was
10 sitting on the porch, on their porch.

11 Q. What was he doing?

12 A. Smoking a cigarette.

13 Q. And what time did you say that was?

14 A. That was in early -- it was before 5:00. So I say
15 it was like 20 minutes to 5:00 or between the 4:45 to 4:50
16 area, up in that way.

17 Q. 4:45 to 4:50. In that area.

18 A. I'm not exact, but it was somewhere up in there
19 before 5:00.

20 Q. Okay. Was anything unusual about how he acted at
21 that time?

22 A. Yes. Because I always speak to him, you know. I
23 always will speak when I see him, whether I was walking or
24 not. I always speak, but he didn't speak back.

25 So that was -- that wasn't natural. So I just -- I
26 didn't -- after he didn't speak, I just kept going straight
27 and went on home.

28 Q. Did you notice what he was wearing at that time?

29 A. Yeah. He had on a white t-shirt. I don't know. It

1 could have been white or cream, and he had on some short
2 pants.

3 Q. Could you see his feet at that time?

4 A. No, I wasn't looking. Because the bar rails, they
5 got bar rails on the porch. So I didn't pay no attention to
6 all that.

7 Q. All right. And I want to make sure I'm correct.
8 You said that was when you were walking.

9 A. Right. That was early in the morning.

10 Q. Had you started your walk or were you finishing your
11 walk?

12 A. I was finishing, coming around. I was going to do
13 three times like I always do. But after I was going around,
14 and I spoke, and I just -- that wasn't natural to me. So I
15 just didn't go around the other two times. I just went around
16 one that morning.

17 Q. All right. Patricia, did you have an occasion to
18 see the defendant later that morning?

19 A. Yes, sir, I did.

20 Q. What time was that?

21 A. That was in the 7:00 to 7:30 range.

22 Q. What was he doing at that time?

23 A. Coming home from across the hill.

24 Q. All right. Now, I want to make sure that we all
25 understand where he was coming home from. Which direction was
26 he coming home from?

27 A. From across the hill off of Powell Street. Behind
28 our house is a little hill, like a little hill behind there.
29 And he was coming -- he was coming around -- coming from that

1 way.

2 Q. How was he coming?

3 A. He was coming -- well, when I see him he was
4 running, like he was running going to go in through their back
5 door, because their back door was facing the hill.

6 Q. So when you saw him between 7:00 and 7:30, he was
7 running back toward his house.

8 A. Yes.

9 Q. Are you familiar with the different streets around
10 there?

11 A. Well, yes. To the best of my knowledge. Yes, you
12 know.

13 Q. All right. Can you kind of tell us what's on which
14 side? I want to make sure I've got straight in my mind which
15 direction he was coming from.

16 A. Okay. On which side on what?

17 Q. Around the house. Just kind of describe that area.

18 A. Okay. In the front of our house is McNutt Drive.
19 Pass on by, you are going to go into Cemetery Lane. If you
20 make a left, you going to go all the way down, and you going
21 to come to Powell Street. So it was Powell Street would have
22 been the way he was running from. That would be the main
23 street.

24 Q. Okay. How close were you with Curtis and Connie
25 Moore at that time?

26 A. I was real close to them. I was their friend. I
27 was real close to them.

28 Q. Did you at that time have what you considered any
29 type of special relationship?

1 A. With Connie's baby daughter.

2 Q. Okay. Who was that?

3 A. That was Brittany.

4 Q. And what was that relationship, as far as you were
5 concerned?

6 A. I took her to be my Godchild.

7 Q. Do you have any kind of connection with them since?

8 A. No. Because I moved away. And I been real sick and
9 stuff. And I hadn't been back to --

10 Q. Okay.

11 A. -- contact them. I have seen them on other
12 occasions, but I hadn't had no personal contact with them.

13 Q. Have you had any contact with them since you first
14 told about seeing Curtis that morning?

15 A. No, I hadn't, 'cause I moved.

16 Q. Did you have an occasion when you saw Curtis Flowers
17 running back to his house to notice what kind of shoes he had
18 on?

19 A. Yes, sir. He had on some Fila, Grant Hill Filas.

20 Q. And how were you familiar with the shoes he had on?

21 A. They were special back then. When all that -- they
22 was a special pair of shoes, and everybody wanted them.
23 Commercial had them and everything. They was a special pair
24 of shoes.

25 Q. Had you seen him wearing these shoes before?

26 A. Yes.

27 Q. Other than seeing the defendant on his porch about
28 4:45 and seeing him running to the house somewhere between
29 7:00, 7:30, in that timeframe, did you see him anymore that

1 day?

2 A. When he left after that. 7:30 he left. He left
3 back out. And after then, I didn't see him anymore.

4 Q. As close as you can tell us, when did you see him
5 leave back out of the house?

6 A. Okay. I saw him leave back out the house, it wasn't
7 -- he wasn't in there 30 minutes. It wasn't even -- I'd say
8 it wasn't even 20. I would say it was about 15 minutes. He
9 left back the same way going back across the hill, and I
10 hadn't -- I didn't see him no more that day.

11 Q. Was he walking or running at that time?

12 A. He was walking.

13 Q. Was it anything unusual about seeing him running
14 that time of the morning?

15 A. No. Because he could have been running for exercise
16 or running. You know, it wasn't, not to me. I was just --
17 not to me it wasn't.

18 Q. Now, when was the first time that you told anybody
19 about seeing, seeing him at those times? Was it that day?

20 A. No.

21 Q. Do you remember how long after that?

22 A. No, I do not. I do not remember. It could have
23 been a month later. It could have been two or three -- two
24 weeks later. I don't remember.

25 Q. Okay. Do you remember who you told?

26 A. Yes.

27 Q. Who was that?

28 A. John Johnson.

29 MR. EVANS: Your Honor, I tender the witness.

1 THE COURT: You may proceed.

2 MR. DEGRUY: Thank you, Your Honor.

3 CROSS-EXAMINATION BY MR. DEGRUY:

4 Q. Good afternoon, Miss Odom.

5 A. Good afternoon.

6 Q. I want to get these times right. You said you first
7 saw Curtis about 4:50 in the morning.

8 A. 4:45. Between 4:45 and 4:50. I'm not exact.

9 Q. And then when you saw him coming from over the hill,
10 was that from the direction of his parent's house?

11 A. It could have been, because they live that way also.

12 Q. And what time was that?

13 A. That was around 7:00, between -- in the 7:00 to 7:30
14 range.

15 Q. Okay. And then you saw him leave from his house.
16 That's, that's when you saw him with what you say are Grant
17 Hill Filas; right?

18 A. I saw him when he came -- when he was running, when
19 he came to the house I saw him with Filas on, the same shoes.
20 And when he left, he had the same stuff on he had on when he
21 came in.

22 Q. And, and that would have been between 7:30 and 7:45.

23 A. Well, yeah. In that time range.

24 Q. Okay. And what, what kind of pants was he wearing?

25 A. He was wearing some wind suit pants, nylon wind suit
26 pants. And they was unzipped on the leg, like a flap. They
27 was flapping, unzipped.

28 Q. Do you remember what color?

29 A. They was black.

1 Q. What kind of shirt was he wearing when he left out?

2 A. Okay. He had on a white shirt with some writing on
3 it.

4 Q. Did he have a jacket?

5 A. No.

6 Q. Or nothing else?

7 A. No.

8 Q. Other than this pair of what you said are Grant Hill
9 Filas, have you seen him wearing any other kind of shoes?

10 A. Yes, I have.

11 Q. What kind of shoes have you seen him wearing?

12 A. Well, I don't what y'all may call them but Sunday
13 shoes, you know, that go with your suit, you know, nice pair
14 of shoes like that. Yes.

15 Q. And that would be like when he is going...

16 A. I don't know where he be going.

17 Q. Okay.

18 A. You could say going to church or to sing or
19 something or go somewhere.

20 Q. He would be dressed up.

21 A. Yes. With a suit or something. Yes.

22 Q. But that was -- that was the only pair of tennis
23 shoes you saw him wear.

24 A. Yes, sir. Yes.

25 Q. When you were -- when you were outside around 7:30,
26 how, how long were you out?

27 A. Okay. I wasn't -- I was in -- right there on the
28 sidewalk, right there. Right there almost at their house.
29 Because my clothesline was right there adjacent to where they

1 have to come over to go through their back door, because they
2 so close. The houses so close. So I was like right there on
3 the sidewalk going to my -- getting ready to go to my
4 clothesline.

5 Q. Okay.

6 A. Right.

7 Q. And that was about 7:00 you were going there or
8 7:30.

9 A. Huh-huh. No. It be in the 7:30 -- it was like
10 7:30, going on -- in the 7:30 range when I went out, when I
11 was coming out.

12 Q. Okay. The first -- when you saw him coming from
13 over the hill, what were you doing?

14 A. That's what I was doing.

15 Q. Oh, okay.

16 A. Yeah. That is how I know what time it was, because
17 I set my dryer for the 20 minutes, my washer for the 20
18 minutes for the clothes. That is how I know it.

19 I have a clock right there on my -- I had -- the way
20 things -- the way the apartments were made, I had a clock
21 right there, too, with a timer on it. That is why I know what
22 exact time and stuff like that.

23 Q. And what time was it?

24 A. In was in the 7:30, 7:00 to 7:30.

25 Q. And so then you were just outside about 20 minutes
26 hanging clothes.

27 A. Yeah. About -- I say about 15 to 20 minutes.

28 Q. Okay.

29 A. Because they were white clothes, and I like them to

1 look pretty. They was hanging up. Yeah.

2 Q. Did you see any other neighbors out?

3 A. No.

4 Q. Didn't see anybody else out in the neighborhood?

5 A. Huh-huh.

6 Q. And you told Mr. Evans that it was like a month.

7 Might have been a month later. You have no idea how long.

8 A. No. I'm not for sure about how long it was before I
9 talked to Mr. Johnson. I'm not for sure.

10 Q. The first thing you said was could have been a
11 month.

12 A. Yes. Could have been a month. Yes, I did say that.
13 It could have been two weeks. Could have been a month.

14 Q. Could it have been longer than that?

15 A. No, I don't believe it was longer.

16 Q. Six weeks?

17 A. No. No. No. No.

18 Q. Okay.

19 A. Huh-huh.

20 MR. DEGRUY: Okay. That's all I have, Your
21 Honor.

22 THE COURT: Any redirect?

23 MR. EVANS: Nothing further, Your Honor.

24 THE COURT: Is she excused?

25 MR. EVANS: Yes, Your Honor.

26 THE COURT: Miss Odom, you may step down, and
27 you are free to go.

28 THE WITNESS: Okay. And I need to ask you,
29 Judge. I'm very sick, and I live in Jackson. I got -- I

1 been in the hospital for a whole month. Wednesday was a
2 week. But I been out the hospital, and I'm down here.

3 I have two stints in my left and right kidney, and I
4 wanted to see could I be completely excused so I won't
5 have to come back.

6 THE COURT: You are. You are free to go. You
7 don't have to come back.

8 THE WITNESS: Okay. Thank you.

9 THE COURT: Who will be your next witness?

10 MR. EVANS: Give us one second to figure out
11 which one.

12 Bill Thornburg.

13 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
14 BENCH.)

15 THE COURT: Come around, please, and take the
16 oath. Raise your right hand.

17 Do you solemnly swear or affirm the testimony you
18 give in this case will be the truth, the whole truth and
19 nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE COURT: Come around, please, and have a
22 seat.

23 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

24 THE COURT: For the record, please, state your
25 name.

26 THE WITNESS: Bill Thornburg.

27 THE COURT: Mr. Hill, you may proceed.

28 MR. HILL: Thank you, Your Honor.

29 If you will, give me just one minute, please, sir.

1 BILL THORNBURG, Called on behalf of the State, having
2 been duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION BY MR. HILL:

4 Q. Mr. Thornburg, would you tell the ladies and
5 gentlemen of the jury whether you've ever had any official
6 capacity as an elected officer of this county, and, if so,
7 what that was, please?

8 A. I was elected sheriff of this county.

9 Q. Okay. When was that?

10 A. 2001.

11 Q. And had you had any law enforcement experience prior
12 to that?

13 A. Yes, sir, I did. About 26 years as a deputy
14 sheriff.

15 Q. Okay. Before you were sheriff, what was your rank
16 or position in law enforcement before you were elected
17 sheriff?

18 A. S.O. 2. Montgomery 2.

19 Q. That was chief deputy sheriff here.

20 A. Yes, sir.

21 Q. Okay. Sheriff, I want to direct your attention, if
22 I could, specifically to July 16, 1996, and ask you were you
23 with the sheriff's office here at that time?

24 A. Yes, sir, I was.

25 Q. What was your position then?

26 A. I was chief deputy.

27 Q. And you indicated a badge number awhile ago. What
28 was your badge number at that time?

29 A. S.O. 2.

1 Q. Okay. Did you get a call that morning, Sheriff,
2 about an emergency or something unusual that caused you to go
3 to Tardy's?

4 A. Yes, sir, I did.

5 Q. Tell us where you were and what you were doing that
6 morning back in 1996 when you got that call.

7 A. I had been in justice court in here, and we had
8 gotten through. And I was over in the circuit clerk's office.

9 Q. How did you get the call? Did somebody --

10 A. Telephone.

11 Q. -- radio you?

12 A. The jail called me on the telephone.

13 Q. Okay. And what did you do as a result of that call?

14 A. I left the circuit clerk's office, and I ran through
15 here. Wasn't anybody in here. I went by justice court and
16 James Taylor Williams was in there. And I said there has been
17 a shooting at Tardy's.

18 Q. Now, was Mr. Williams in law enforcement?

19 A. He was. He was a highway patrolman.

20 Q. Okay. Still is, isn't he?

21 A. Yes, sir.

22 Q. Okay. The reason you came through over there was
23 looking for some help.

24 A. Yes, sir.

25 Q. What information did you have, Sheriff? What kind
26 of call was it that you got?

27 A. Said there had been a shooting at Tardy Furniture.

28 Q. Okay. After you stuck your head in the justice
29 court clerk -- in the justice court office over there and

1 spoke to Mr. Williams, what did you do then?

2 A. I left there running to my patrol car.

3 Q. I take it you drove straight over to Tardy's.

4 A. I did.

5 Q. About how long would you say the drive from here to
6 over there is, Sheriff?

7 A. Probably two to three minutes.

8 Q. Okay. Sheriff, tell the ladies and gentlemen of the
9 jury, if you would, please, sir, was anybody there when you
10 got there?

11 A. Yes, sir. I remember -- when I went in I remember
12 seeing Chief Hargrove. And there was another policeman there,
13 but I don't remember who it was.

14 Q. Okay. What did you do when you got there?

15 A. I went in, and I started toward the back. And about
16 halfway back there's a counter where they conducted business.
17 That's where I was headed, back through there.

18 Q. What did you see, Sheriff?

19 A. I saw some bodies on the floor.

20 Q. Did you know those people?

21 A. Yes, sir.

22 Q. Who did you -- if you can recall, who did you see?

23 A. I saw Bertha Tardy and Robert Golden. And I can't
24 remember her name.

25 Q. Miss Rigby. Did you see Miss Rigby?

26 A. Miss Rigby.

27 Q. Did you see her there?

28 A. Yes, sir.

29 Q. Was there anyone else there, a young man?

1 A. No, sir.

2 Q. Okay. Was the ambulance already gone, or was it
3 still there when you got there?

4 A. It was gone.

5 Q. You said there were officers. You said Chief
6 Hargrove was there.

7 A. Yes, sir. I specifically remember seeing him. I
8 don't remember who the other one was, but there was two
9 officers there in the store when I went in.

10 Q. Okay. Sheriff, did you see anything as you were
11 walking up that aisle toward the counter? Did you notice
12 anything on the floor that came to your attention?

13 A. Yes, sir. There was a big pool of blood right there
14 on the floor.

15 Q. Did you notice anything that you thought might be --
16 might be evidence or anything like that?

17 A. Well, it was some tracks in the blood.

18 Q. That is what I'm talking about.

19 A. Yes, sir.

20 Q. You saw those when you went in.

21 A. Yes, sir.

22 Q. Did you -- once you saw those, did you speak about
23 them to anybody else?

24 A. I can't remember whether I told -- I said don't
25 anybody step in this blood, because there is some tracks in it
26 that could be used in evidence.

27 And I walked over toward Mr. Golden, Robert Golden. And
28 I saw a, a cartridge hull. So I squatted down. And I took
29 the pen out of my pocket, picked it up, looked on the end of

1 it. It was a .380 hull.

2 Q. What did you do with it?

3 A. I put it right back down where it was at.

4 Q. So at that point you knew that one of those hulls
5 was a .380 on the floor there. You said that was by who? Who
6 was that by?

7 A. Robert Golden.

8 Q. Did you step in any of the blood or anything around
9 there?

10 A. No, sir.

11 Q. Were you careful when you were stepping where you
12 were walking?

13 A. Yes, sir.

14 Q. Now, Sheriff, I take it -- just for the record, tell
15 us what kind of shoes, what kind of footwear you had on that
16 day.

17 A. I had on what we normally call cowboy boots, western
18 boots.

19 Q. Do they have a pattern or tread design on the bottom
20 of them?

21 A. Slick soles. (Shook head.)

22 Q. You shook your head, but that was a no; right?

23 A. Right.

24 Q. Sheriff, while you were there did you get any other
25 calls sometime after you arrived on the scene at Tardy's?

26 A. Yes, sir, I did.

27 Q. Did you get any other calls that required your
28 attention, required you to leave Tardy's?

29 A. Yes, sir.

1 Q. Tell us what that was about, please.

2 A. The sheriff's office called me again and said there
3 had been a break-in at Angelica, a car had been broken into.

4 Q. A car had been broken into.

5 A. Yes, sir.

6 Q. What did you do then, sir?

7 A. I went, got back in my patrol car and drove down to
8 Angelica. I went in the front office. And I told the office
9 manager that I had gotten a call that somebody's car had been
10 broken into.

11 She didn't know anything about it. So she said I will go
12 to the back and see if I can find out whose it is. And she
13 went to the back and came back to the front office. And she
14 told me that it was Doyle Simpson's car.

15 Q. Okay. So was Doyle Simpson there at the time? When
16 you got the report that it was Doyle's car, was Doyle on the
17 premises at the time?

18 A. No, sir.

19 Q. Okay. Did you wait for him?

20 A. Yes, sir, I did.

21 Q. How long did it take him to get back?

22 A. Probably 15 or 20 minutes.

23 Q. Okay. When he got back, did you speak with him?

24 A. I did.

25 Q. What did he tell you? What was his complaint?

26 A. He parked in front of the office and came inside and
27 I spoke with him for a few minutes. And he told me his car --

28 MR. DEGRUY: Your Honor, I am going to object
29 to the hearsay of what Mr. Simpson actually said.

1 Q. Okay. Sheriff, not what he said. What was the
2 nature of the complaint? What was he complaining about?

3 A. That his car had been broken into and a gun stole.

4 Q. Did he -- did you know what kind of gun it was you
5 were looking for?

6 A. He told me.

7 Q. What was it?

8 A. Said a .380.

9 MR. DEGRUY: Your Honor, it is hearsay, asking
10 what Mr. Simpson said. I take it Mr. Simpson will
11 testify.

12 THE COURT: I don't think he is offering it for
13 the truth of the matter that it was a .380. I think he's
14 --

15 MR. HILL: We plan on tying it in, Your Honor.

16 THE COURT: -- testifying to what he did and
17 what was stated to him that caused him to do what he did.

18 Q. (By Mr. Hill:) Sheriff, I am going to put up a -- I
19 am going to put up a photograph right here. Before I do that,
20 I think I'll show it to you. This is State's Exhibits 99 and
21 100 and 100-A, 99-A, 100-A and 101-A. And can you see that
22 from where you are sitting, Sheriff?

23 A. Can I see it? Yes, sir.

24 Q. Do you know what these are photographs of?

25 A. Doyle Simpson's car.

26 Q. Okay. Did you have an occasion that day, Sheriff,
27 to, to examine the car? I mean in other words, when you -- if
28 you were told that there had -- you were out there because of
29 a break-in. Did you happen to see Doyle's car?

1 A. Yes, sir, I did.

2 Q. Tell the ladies and gentlemen of the jury what you
3 observed when you saw Doyle's car.

4 A. I looked in the window, and the glove compartment
5 was open. I opened the door and sat down and looked and it
6 appeared that it had been pried open with a screwdriver or
7 tire arm or something like that.

8 Q. Okay. So you said you looked in the window. I take
9 it the window was down when you looked in.

10 A. Yes, sir.

11 Q. You sat on the seat, I think you said.

12 A. Yes, sir.

13 Q. And what was it about the appearance of the glove
14 box that made you think it had been pried open? Why did you
15 think that?

16 A. There were some pry marks on it.

17 Q. Where about? Would you point those out on that
18 diagram up there, Sheriff? Just the general area you are
19 talking about.

20 A. Right here. (Indicated.)

21 Q. Okay. Thank you, Sheriff.

22 Now, for the record, you are pointing to the top edge of
23 the glove box door, just above and to the right of the thumb
24 switch; is that correct?

25 A. Yes, sir.

26 Q. Sheriff, did you -- with regard to that report of a
27 burglary or theft from that car, did you or you in conjunction
28 with anyone else have, have somebody come look at that car?
29 What did y'all do with it after you found it there, Sheriff?

1 A. I left, left from down there. And the car -- his
2 car was still parked in front of Angelica.

3 Q. Did you -- what I'm getting to is did y'all ever
4 have it come down to the police station for anything?

5 A. Yes, sir.

6 Q. What was the reason for that?

7 A. The investigators were down there.

8 Q. Do you know who? When you say investigators, can
9 you give me a name of anybody that you spoke to about the car?

10 A. Jack Matthews. Wayne Miller.

11 Q. Okay. Now, I don't know if I asked you this or not,
12 Sheriff, but when Doyle got back with the car, you said that
13 was about 15 - or did I misunderstand you - 15 or 20 minutes
14 after you arrived that he came back in the car?

15 A. Yes, sir.

16 Q. Do you know what time that was?

17 A. I don't remember exactly what time it was.

18 Q. Did you have a discussion with Mr. Simpson?

19 A. I did.

20 Q. Did you talk to him about what his complaint was?

21 A. I did.

22 Q. After talking to, to Mr. Simpson about the nature of
23 his complaint, was the -- was the .380 automatic brought to
24 your attention or brought up in the discussion with him?

25 A. Yes, sir.

26 Q. Did you have an occasion to have Mr. Simpson
27 accompany you out to his momma's house?

28 A. I did.

29 Q. Tell the ladies and gentlemen of the jury why did

1 you go to Doyle's or Doyle's momma's house. What did you go
2 out there for?

3 A. Went out there looking for some projectiles or hulls
4 from a .380.

5 Q. Why did you have reason to believe that there might
6 be some .380 firearms evidence at Doyle's momma's house?

7 A. Well, that was the type weapon that was stolen out
8 of his car. Also, it was the type weapon that those people
9 were killed with at Tardy's.

10 Q. Okay. Now, you knew that fact right there. You
11 knew that a .380 cartridge case was on the ground beside
12 Robert Golden. And by the time you talked to Doyle out of
13 Angelica, his complaint was his .380 was stolen out of his
14 car.

15 A. Yes, sir.

16 Q. So in your talking with him, did you ever ask him
17 whether or not he had fired that weapon, the one that he
18 alleged that was stolen? Did you ever ask him if he had fired
19 that gun anywhere?

20 A. Yes, sir.

21 Q. As a result of that, you went out to his momma's
22 house.

23 A. I did.

24 Q. As a result -- did you have anybody with you when
25 you went out there, Sheriff, the first time?

26 A. I don't believe so. No, sir.

27 Q. When you went out there, did you find anything that
28 you went looking for?

29 A. Yes, sir, I did.

1 Q. What was it?

2 A. I found a projectile that was in a cedar post where
3 he had been firing the weapon at cans and bottles.

4 Q. Now, did you actually take Doyle with you to the
5 place that you looked at where he was firing the gun? In
6 other words, did Doyle show you where he had been shooting the
7 gun at?

8 A. Yes, sir.

9 Q. So you didn't have to search. You knew where to
10 look, I guess, is what I'm getting at.

11 A. Right.

12 Q. Did you find anything there?

13 A. I did. I seen some holes in the post. I took my
14 pocket knife out - it's a little pocket knife - and punched in
15 the hole. And I felt something in there, and I whittled it
16 out. And it was a projectile.

17 Q. Okay. One moment.

18 Sheriff, I want to hand you what's been marked for
19 identification, this white envelope. It's been marked State's
20 Exhibit Number 82 for identification. Would you just examine
21 that, please, sir? Tell us, if you -- after you examine it,
22 if you can tell us what it is.

23 A. It's a projectile.

24 Q. Do you know where it came from?

25 A. Yes, sir. It came out of that cedar post.

26 Q. Is that the projectile that you carved out of the
27 cedar post behind Doyle Simpson's momma's house?

28 A. Yes, sir.

29 Q. Is that the post that he directed you to that you

1 got that bullet out of?

2 A. It is.

3 Q. What did you do with this? I didn't ask you this,
4 Sheriff. Is there -- did you indicate on there the day that
5 you went and recovered that bullet?

6 A. Yes, sir.

7 Q. Is your initials marked on there?

8 A. It is.

9 Q. What else is on there?

10 A. 7-19 of '96. B.T. That is my initials, Bill
11 Thornburg. S.O. 2.

12 Q. Okay. All right, sir. And did you turn this in to
13 -- did you turn this over to anybody - highway patrol
14 investigators or crime lab or anything?

15 A. I did.

16 Q. So the 7, 7-19, that would be the 19th of July that
17 you were out there and recovered that projectile.

18 A. Yes, sir.

19 Q. And did you discuss that with the other
20 investigators, that you had recovered that projectile?

21 A. I did.

22 Q. Was Jack Matthews the officer that you turned that
23 over to? Or do you know?

24 A. Yes, sir. It was Jack Matthews.

25 Q. Did you -- after you talked to Officer Matthews
26 about that bullet, did y'all have an occasion to -- in other
27 words, once you told him you dug the bullet out of that post,
28 did y'all go back out there, you and Officer Matthews, to see
29 if you could recover any additional evidence from out there?

1 A. We did.

2 Q. I hand you what's been marked State's Exhibit Number
3 81 and ask you to look at that, please. Do you know what that
4 is?

5 A. That's another projectile.

6 Q. All right, sir. Does that look like the projectile
7 that you and Jack recovered out of that post the second time?

8 A. Yes, sir.

9 Q. Is there a date on it?

10 A. Yes, sir.

11 Q. What does it say?

12 A. First of August '96.

13 Q. How did y'all get that bullet out, that second
14 bullet? How did you get it out? Was it -- well, let me ask
15 you this. Where was it when you found it?

16 A. It was in the same cedar post. It was a little
17 further in than the one I had previously got out. We took a
18 hatchet and hacked away till we got almost to the projectile,
19 and we were able to get it out without damaging it.

20 MR. HILL: Your Honor, at this point I'd ask
21 that State's Exhibit 81 and 82 be received.

22 MR. CARTER: No objection.

23 THE COURT: I'll allow them to be admitted.

24 (THE BULLET REMOVED FROM DOYLE SIMPSON'S POST PREVIOUSLY
25 MARKED STATE'S EXHIBIT NUMBER 81 FOR IDENTIFICATION WAS
26 ADMITTED INTO EVIDENCE.)

27 (THE BULLET REMOVED FROM DOYLE SIMPSON'S POST PREVIOUSLY
28 MARKED STATE'S EXHIBIT NUMBER 82 FOR IDENTIFICATION WAS
29 ADMITTED INTO EVIDENCE.)

1 MR. HILL: Court will indulge me one moment,
2 Your Honor.

3 THE COURT: Sure.

4 Q. (By Mr. Hill:) Sheriff, while you were working with
5 the highway patrol and, I assume, the police department and
6 others in the investigation of this case, did you have an
7 occasion to, to, to know or to learn where Curtis Flowers was
8 living?

9 A. Yes, sir, I did.

10 Q. Did you know who he was staying with?

11 A. Yes, sir.

12 Q. Who was that?

13 A. Connie Moore.

14 Q. Was that over on McNutt street? I think 702 McNutt.

15 A. Yes, sir.

16 Q. Did y'all have an occasion to go over to Curtis'
17 house there?

18 A. We did.

19 Q. What were you looking for when you went there,
20 Sheriff?

21 A. Looking for Fila tennis shoes.

22 Q. I take it you were looking for some Fila tennis
23 shoes, because y'all were investigating and that came up and
24 that is what you were looking for.

25 MR. CARTER: Object to the leading.

26 MR. HILL: Sorry. Rephrase. Withdraw the
27 question.

28 Q. (By Mr. Hill:) Y'all were looking for some Fila
29 shoes. Did -- how did you go about your search there at the

1 defendant's house looking for those shoes? What did you do?

2 A. I asked her for permission to search. She told us
3 we could.

4 Q. Okay. Miss Moore. I mean is that who you are
5 speaking of?

6 A. Yes, sir.

7 Q. So when you went there looking for the shoes, the
8 Fila tennis shoes, did you find any Fila tennis shoes in Miss
9 Connie Moore and the defendant's house?

10 A. I did in the --

11 Q. While you were looking for the Fila tennis shoes did
12 you find anything else that you made note of at the time you
13 were searching for the shoes?

14 A. Yes, sir.

15 Q. What was that?

16 A. Found a Fila tennis shoe box in a chester drawer.

17 Q. Okay. Did y'all recover or retrieve the Fila shoe
18 box when you were looking for the shoes the first time?

19 A. No, sir.

20 Q. After you left her house, did you and the other
21 officers discuss the fact that you had observed a Fila tennis
22 shoe box at Connie Moore and the defendant's house?

23 A. Yes, sir.

24 Q. Or talk about the significance of that.

25 A. We did.

26 Q. Did you return to Miss Moore's house at any time?

27 A. Yes, sir. I think it was about two weeks later.

28 Went back over there and, and spoke with Connie and told her I
29 needed to get that shoe box, Fila shoe box, out of that

1 chester drawer.

2 Q. Now, why don't you tell us - I don't think I have
3 asked you this, Sheriff - when you were looking for the shoe
4 box, where was it when you saw it?

5 A. The shoe box was in the chester drawer in the back
6 bedroom.

7 Q. Okay. Did the shoe box have any items or anything
8 in it?

9 A. No, sir.

10 Q. Just an empty box.

11 A. Yes, sir.

12 Q. Did the box have a lid on it?

13 A. Yes, sir.

14 Q. When you went back over there a couple of weeks
15 later and asked Connie for the box, did she give it to you?

16 A. Yes, sir.

17 Q. Did you follow her back to the back bedroom?

18 A. No, sir, I did not.

19 Q. Or just wait at the door? Or what did you do?

20 A. I just waited at the front room there where she was
21 at.

22 Q. Okay. And did she go get it and bring it right back
23 to you?

24 A. Yes, sir.

25 Q. Sheriff, I'm going to hand you what's been marked
26 79-A for identification. Would you just hold on to that,
27 please? And I want you to look at it and tell the ladies and
28 gentlemen of the jury, if you can, do you recognize that shoe
29 box? And if so, how do you recognize that particular shoe

1 box?

2 A. It has my initials on it.

3 Q. What -- is, is that in your own handwriting?

4 A. Yes, sir.

5 Q. What all is written in that writing there?

6 A. 14 of August '96. 2:17 p.m. J.D. B.T. Bill
7 Thornburg.

8 Q. What is J.D.?

9 A. Jerry Butler. He was with me.

10 Q. Okay. Jerry Dale Butler. Is that who you are
11 talking about?

12 A. J.D. Butler. Right.

13 Q. He was with you at the time.

14 A. Yes, sir.

15 Q. All right, sir. Now, Sheriff, does that box have a
16 -- I want to direct your attention to this end of the box, and
17 I'll ask you this. Let me take the lid up out of your way
18 here in just a minute. Is there a label on that box?

19 A. Yes, sir.

20 Q. Does the label say what the contents of it were when
21 it was made or labeled?

22 A. Yes, sir. It's MS Grant Hill II. M.D. Tennis
23 shoe. 2 1/2. 10 1/2. I'm sorry.

24 Q. 10 1/2 Grant Hill Filas. Okay. What did you do
25 with that box, Sheriff, when Connie gave it to you?

26 A. I carried it back, turned it over to the
27 investigators.

28 MR. HILL: Your Honor, we would ask that
29 State's 79-A for identification be marked into evidence.

1 MR. CARTER: No objection.

2 THE COURT: I'll allow it to be admitted.

3 (THE FILA SHOE BOX PREVIOUSLY MARKED STATE'S EXHIBIT
4 NUMBER 79-A FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

5 Q. (By Mr. Hill:) Sheriff, why was it that you were
6 wanting to recover firearm's evidence; that is, bullets? Why
7 were you wanting to recover bullets from Doyle's, Doyle
8 Simpson's backyard where he had fired target practice bullets
9 into that post? Why was it important for you as investigator
10 and sheriff working on this case to have some bullets that
11 came out of Doyle's gun?

12 A. Well, the people were killed with a .380. And a
13 .380 was stolen. And it was Doyle's gun that was stolen.

14 Q. You wanted to compare --

15 A. Just common sense would tell me that whoever stole
16 the gun could have done it, you know. And compare the bullets
17 that was in the store and the ones that was -- we got out of
18 the post.

19 Q. See whether they matched or not.

20 A. Yes, sir.

21 Q. Okay.

22 MR. HILL: Tender the witness, Your Honor.

23 CROSS-EXAMINATION BY MR. CARTER:

24 Q. Sheriff, what time did you say you got to Tardy's
25 that morning. Do you remember?

26 A. Well, I don't remember what time exactly I got down
27 there. It was shortly thereafter that I got the call.

28 Q. Okay. When you got there, where was Mr. Hargrove?

29 A. He was inside the store there, him and other

1 policeman. I don't remember who the other policeman was.

2 Q. Okay. And were you lead into the store, or did you
3 walk in on your own?

4 A. I walked in on my own.

5 Q. Okay. Did anybody tell you anything, say anything
6 to you?

7 A. I don't remember.

8 Q. Okay. And so no one said anything to you before you
9 walked in. Is that fair to say?

10 A. Could have. I, I don't remember if they did or not.
11 There was a lot of people outside.

12 Q. Who was outside?

13 A. I don't know. I went right on in the store.

14 Q. Did you make any notes of any of them?

15 A. No, sir.

16 Q. And at this point you don't have any mental notes of
17 who was out there; is that correct?

18 A. Right.

19 Q. That's why it's a good idea to make written notes;
20 isn't that correct?

21 A. Could have been. Yes, sir.

22 Q. You say could have been. Now, now, 12 years later
23 written notes, is it fair to say, would help your memory, help
24 you recollect who might have been there?

25 A. Could have. I didn't make any.

26 Q. You didn't make any.

27 A. I didn't have time.

28 Q. Didn't have time. Okay. But you do admit that
29 documentation is real important in police work. Is that fair

1 to say?

2 A. Most of the time.

3 Q. And this was the probably biggest crime that ever
4 happened in this town; is that correct?

5 A. That I don't know.

6 Q. But it was a big one. Certainly without question,
7 it's a big crime, isn't it?

8 A. Yes, sir.

9 Q. So I take it, when you walked in nobody said be
10 careful, watch out, don't, don't step in this, don't go in
11 that area; isn't that correct?

12 A. I don't remember them telling me not to step in
13 anything.

14 Q. Now, this hull, how did you say you picked this hull
15 up?

16 A. Took a pen out of my shirt pocket, stuck it in the
17 end of it and picked it up.

18 Q. And what did you do with it?

19 A. I looked on the end of it, saw it was a .380.

20 Q. And laid it back down where you got it from.

21 A. Yes, sir.

22 Q. Now, Chief, what color is this car on S-99-A? ---

23 A. It's probably -- some people would call it a gold,
24 bronze, brown. It's a brown car. Yes, sir.

25 Q. What do you call it?

26 A. I would say it's brown.

27 Q. Okay. Is it two-tone or one-tone?

28 A. It's two-tone.

29 Q. Okay. That's pretty obvious to the eye, isn't it?

1 A. Pardon.

2 Q. Is it fair to say it's two-tone and it's pretty
3 obvious to the eye?

4 A. Yes, sir.

5 Q. Now, as to this glove compartment being pried open
6 on Exhibit S-101-A, you said it looked to be pried open to
7 you; is that correct?

8 A. Yes, sir. It was some pry marks on it.

9 Q. Okay. And you don't have any idea when it happened
10 or who did it, do you?

11 A. No, sir.

12 Q. Now, at the time you got to Angelica, you saw Emmitt
13 Smith running; is that correct?

14 A. Emmitt Simpson. Yes, sir.

15 Q. Emmitt Simpson.

16 A. Yes, sir.

17 Q. That's Doyle's brother; isn't that correct?

18 A. Yes, sir.

19 Q. And you later saw Doyle drive up; is that correct?

20 A. Yes, sir. Saw him drive up out front.

21 Q. Do you know if Doyle ever made a stolen gun --
22 written stolen gun report?

23 A. No, sir. I don't remember one.

24 Q. He didn't make one to you, did he?

25 A. No, sir.

26 Q. Didn't you later learn that Doyle lied to you about
27 where he got the gun?

28 A. Yes, sir.

29 Q. Now, when you went out and found that projectile,

1 did you make a, a written statement about that?

2 A. No, sir.

3 Q. Did you take a picture of the tree?

4 A. No, sir.

5 Q. Did you take a picture of the projectile?

6 A. No, sir, I didn't.

7 Q. And you were by yourself on that occasion.

8 A. Yes, sir.

9 Q. And is there any rule that says you shouldn't take a
10 picture or you shouldn't make a report of it?

11 A. No rule I don't -- that I know of.

12 Q. Now, at some point you gave a statement to John
13 Johnson. Do you remember that? You went to the police
14 department. John Johnson took a statement from you. Do you
15 remember that?

16 A. I remember talking to John. Yeah.

17 Q. Okay. When you talked to him, do you recall if you
18 told him about the -- in that statement, did you tell him
19 about the projectiles found in the tree and all that?

20 A. I don't remember if I did or not.

21 Q. Now, you went back with Jack Matthews and you got
22 another projectile; is that correct?

23 A. Yes, sir.

24 Q. Did y'all take a picture that time of the tree with
25 the projectile in it?

26 A. No, sir. It was a cedar post.

27 Q. Cedar post. Okay. Did you -- did you make a
28 statement about that, written statement?

29 A. No, sir.

1 Q. Now, you went to Mrs. Moore's house; is that
2 correct?

3 A. Yes, sir.

4 Q. Did you get anything besides a box when you went
5 there?

6 A. No, sir.

7 Q. You didn't take any clothes or anything.

8 A. No, sir.

9 Q. Did you look, look for any, any clothes or you went
10 particularly for shoes.

11 A. That's correct.

12 Q. Okay. Now, when you got your box, Miss Moore went
13 and got the box and brought it back to you; is that correct?

14 A. That is correct.

15 Q. So you don't know what she had in it on that
16 occasion, do you? You don't know if she took something out of
17 that box before she gave it to you.

18 A. No, sir, I don't.

19 Q. Now, you said it was just a box sitting in this
20 dresser drawer. Did you have to open a drawer up to see it
21 when you went there?

22 A. Yes, sir.

23 Q. And was this in like the headboard? Was it a
24 drawer, like, in the front of the bed?

25 A. It was a chester drawer.

26 Q. Okay. I'm sorry. I take it -- where was it located
27 with respect to the bed?

28 A. It was in about the center of room. There wasn't a
29 bed in there.

1 Q. Wasn't a bed in there.

2 A. No, sir.

3 Q. Okay. Now, with respect to -- strike that. When
4 you showed up on the scene that day, did you at some point
5 take over the scene from Chief Hargrove?

6 A. Did I take over?

7 Q. Right.

8 A. No, sir.

9 Q. Did he release the scene to you as a superior
10 officer?

11 A. No, sir.

12 Q. Okay. Did you do any canvassing of the neighborhood
13 nearby to see if anybody saw anything or if there were any
14 suspicious cars in the area or anything like that?

15 A. No, sir.

16 Q. Now, Chief, isn't it fair to say that when a crime
17 occurs and you walk into a place and you see a gory crime
18 scene like that and that time is of the essence and some kind
19 of effort should be made as quickly as possible to identify
20 some kind of suspect? Is that fair to say?

21 A. Yes, sir. That would be fair to say.

22 Q. Okay. So, now by that time you had been a officer
23 for several years; is that correct?

24 A. That's correct.

25 Q. I'm just trying to understand why, if time is of the
26 essence, is there some reason or explanation as to why, I
27 guess, why greater effort wasn't put forth at that point to
28 try to locate suspects or --

29 A. Well, at the time I left there and went down to

1 Angelica.

2 Q. Okay. How long were you at the store?

3 A. At Angelica.

4 Q. Yes, sir.

5 A. Probably 35, 40 minutes.

6 Q. Okay. Now, at the time you came back to Tardy's, do
7 you have a rough idea, any idea who was at Tardy's at that
8 time?

9 A. No, sir. I don't have any idea who all was there
10 then.

11 Q. Do you know if Mr. Matthews and Mr. Miller were
12 there by the time you got back?

13 A. Yes, sir.

14 Q. How long did you stay at Tardy's? Do you recall? I
15 know it has been a long time. So you don't have to do it with
16 any accuracy or anything, but best you can.

17 A. Probably three or four hours.

18 Q. Okay. Now, when you went to Connie Moore's house,
19 did you make a statement about that?

20 A. No, sir.

21 Q. Now, at some point did you participate in going --
22 strike that. The scene of the crime was cleaned up the same
23 day or the night of July 16, 1996. Is that what happened
24 according to your recollection?

25 A. Yes, sir.

26 Q. Okay. And who ordered that it be finally, I guess,
27 cleaned up? Was it you?

28 A. No, sir, I didn't.

29 Q. About what time of night did that occur?

1 A. I don't have any idea.

2 Q. Now, subsequent to that or later on, some person
3 went there looking for other things. Did you go back there
4 after the crime? Did you go back to the crime scene after it
5 was cleaned up looking for other evidence?

6 A. I don't remember if I did.

7 MR. CARTER: Okay. I think I'm finished. One
8 moment.

9 Q. (By Mr. Carter:) One other question. I know it's
10 been awhile. After the date of the incident, July 16, 1996,
11 did you participate further in the investigation once Mr.
12 Matthews and Mr. Miller got involved?

13 A. Yes, sir.

14 Q. I know you went -- other than going and getting the
15 projectile on two occasions and going to Miss Moore's house,
16 did you talk to any particular witnesses that you can recall?

17 A. No, sir.

18 MR. CARTER: No further questions.

19 THE COURT: Any redirect?

20 MR. HILL: Just briefly, Your Honor.

21 REDIRECT EXAMINATION BY MR. HILL:

22 Q. Sheriff, counsel asked you about written
23 documentation. Was there a written description on the bullet
24 that you went out and got there? When you when out and got it
25 did you put it in a envelope, mark it, date it, sign it,
26 initial it and all of that?

27 A. I gave it to Jack. And we -- he put it in an
28 envelope. I signed it and...

29 Q. Okay. You signed it. You wrote on it what, what

1 time it was and date.

2 A. Right.

3 Q. And you had the actual item itself; is that right?

4 A. Yes, sir.

5 Q. And on the second one, the one y'all dug out by
6 first having chopped in a little bit and then removed it with
7 your knife, did y'all put that in a brown envelope carrier and
8 label it up and seal it up?

9 A. Yes, sir.

10 Q. So also, when you went and got the box, you made
11 written notation on that item of evidence when you got it,
12 didn't you?

13 A. Yes, sir.

14 Q. And marked it for evidence, put your name on it and
15 everything.

16 A. Yes, sir.

17 Q. Sheriff, you were working with the highway patrol
18 investigators Miller and Matthews; is that right?

19 A. Yes, sir.

20 Q. So they were making documentation of everything you
21 told them, weren't they?

22 A. Yes, sir.

23 Q. You were also asked about Mr. Emmitt Simpson when
24 you went out to Angelica. Counsel asked you if you saw Emmitt
25 Simpson and they -- he was running. Did you catch up to Mr.
26 Simpson and find out where he was? And if you could, tell us
27 where Mr. Simpson -- I'm sorry, Emmitt Simpson, is that right?

28 A. Right.

29 Q. It was mentioned that he was running on the premises

1 of Angelica; is that right?

2 A. Yes, sir.

3 Q. Did you go to where -- in other words, did you find
4 him? In other words, you saw him running. Did you go to
5 where he was?

6 A. I went out and got behind him.

7 Q. Did you trail him to where he stopped?

8 A. I did.

9 Q. Where was it when you talked to him? Where was he?

10 A. He was sitting on the back dock where he worked back
11 there.

12 Q. Okay. So he was -- he was working for what kind of
13 outfit?

14 A. I believe it was some kind of brake, brake -- I
15 don't remember what the name of it was. But it had something
16 to do with brake shoes.

17 Q. Okay. Was it on the -- on or adjacent to the
18 Angelica premises?

19 A. It was on it, on the far west end of the Angelica
20 building.

21 Q. Okay. So my question is if it was on or adjacent
22 to, it was right there at Angelica.

23 A. Yes, sir.

24 Q. He did -- he didn't run off of or you didn't see him
25 running on to the premises. He was on the premises when you
26 saw him.

27 A. Yes, sir.

28 Q. And when you talked to him, he was still on the
29 premises.

1 A. Yes, sir.

2 Q. And did you ask him -- because you knew you were
3 searching for a stolen weapon, did you ask to search any car
4 or anything that he had there?

5 A. I asked to search his van.

6 Q. Van.

7 A. He said have at it.

8 Q. Let you do it.

9 A. Yes, sir.

10 Q. Did you search it?

11 A. I did.

12 Q. Okay. Nothing -- you didn't find anything out of
13 the way or unusual about that.

14 A. No, sir.

15 Q. Now, you were also asked about Doyle driving back up
16 when you got there. Did you find an explanation for Doyle's
17 temporary absence from Angelica? Did you find out what he was
18 doing?

19 A. He had went to pick up some lunches for some of the
20 workers in the back there.

21 Q. Is anything unusual or out of the ordinary about
22 Doyle doing that?

23 A. No, sir.

24 Q. You were also asked about Doyle not being exactly
25 truthful at first, about lying about where he got that gun.
26 At some point did Doyle tell you, or to your knowledge, other
27 investigators about the origin of where that gun came from?

28 A. He didn't tell me, but he did tell investigators.

29 Q. Okay. You were also asked about was there any

1 canvassing of the neighborhood or questioning of witnesses, and
2 you said you didn't do that. But could you tell the ladies
3 and gentlemen of the jury whether or not you were working with
4 a lot of other people on this case to try to get to the bottom
5 of who killed Miss Rigby, Miss Tardy, Mr. Stewart, Mr. Golden?
6 There was more people canvassing and people talking to
7 witnesses than just you, wasn't it, Sheriff?

8 A. Yes, sir.

9 MR. HILL: That's all I have.

10 THE COURT: Sheriff Thornburg, you may step
11 down.

12 I assume he is excused.

13 MR. EVANS: Yes, sir.

14 THE COURT: You are finally excused as a
15 witness.

16 Ladies and gentlemen, we will take a 15-minute
17 recess. Let you stretch and move around some in the jury
18 room. And court will resume in 15 minutes.

19 (A RECESS WAS TAKEN.)

20 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
21 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.

22 PROCEEDINGS WERE AS FOLLOWS:)

23 THE COURT: You can be getting the jury.

24 MR. EVANS:

25 James Edward Kennedy. I think he is right at the
26 back.

27 (THE JURY RETURNED TO THE COURTROOM.)

28 THE COURT: Court will come back to order.
29 They are getting the next witness now.

1 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
2 BENCH.)

3 If you will come around, please, face the bench and
4 take the oath at this time.

5 Do you solemnly swear or affirm the testimony you
6 give in this case will be the truth, the whole truth and
7 nothing but the truth, so help you God?

8 THE WITNESS: I do.

9 THE COURT: Come around, please.

10 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

11 THE COURT: State your name, please.

12 THE WITNESS: James Edward Kennedy, Jr.

13 THE COURT: Mr. Kennedy, you are going to need
14 to speak louder than that, because I want all of these
15 ladies and gentlemen over here to hear, to be able to --
16 and that won't amplify your voice. Just records what is
17 being spoken. So if you will, clear your throat and
18 speak as loud as you can.

19 THE WITNESS: James Edward Kennedy, Jr.

20 THE COURT: That's better.

21 JAMES EDWARD KENNEDY, JR., Called on behalf of the State,
22 having been duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION BY MR. EVANS:

24 Q. That's a lot better, Mr. Kennedy. How are you doing
25 this evening?

26 A. Pretty good. How about yourself?

27 Q. Do you go by any nicknames?

28 A. Bo Jack.

29 Q. Okay. Mr. Kennedy, I want to direct your attention

1 back to the day of the murders at Tardy Furniture, back July
2 16, 1996. Do you remember that day?

3 A. Yes, sir.

4 Q. Where were you living?

5 A. Down on Angelica.

6 Q. What address?

7 A. 635 South Applegate.

8 Q. Do you still live there?

9 A. No, sir.

10 Q. All right. Where -- some of the ladies and
11 gentlemen of the jury may know, but to make sure that
12 everybody understands, where is South Applegate?

13 A. Down passed Wal-Mart.

14 Q. Okay. Is it kind of across the highway from
15 Wal-Mart?

16 A. Right.

17 Q. Is there any factory or plant that was on Angelica
18 Drive?

19 A. Angelica.

20 Q. Okay. I know that may sound like a trick question.
21 Angelica was which direction from your house?

22 A. Back behind it.

23 Q. Okay. Now, did you have an occasion to see -- well,
24 let me ask you this. On that day did you know a person by the
25 name of Curtis Flowers?

26 A. Yes, sir.

27 Q. How long had you known him?

28 A. I've known him a while.

29 Q. Years.

1 A. I wouldn't -- I don't know exactly how long, but
2 it's been awhile.

3 Q. Pretty good while.

4 A. Yes, sir.

5 Q. Did you have an occasion to see him on the morning
6 of the murders at Tardy Furniture?

7 A. Yes, sir.

8 Q. Where did you see him?

9 A. Coming down Angelicas.

10 Q. Where was he coming from? What -- I'm not
11 talking -- I don't want you to guess where he started from.
12 But when you first saw him, where was he coming from?

13 A. He was coming down the highway.

14 Q. That is Highway 51.

15 A. Right.

16 Q. Which direction did he walk to?

17 A. He turned on Angelicas.

18 Q. Okay. Is that on the east side of Highway 51?

19 A. I believe that's right.

20 Q. Okay. Did you have an occasion to speak with him?

21 A. We spoke briefly.

22 Q. Okay. How close did you get to him?

23 A. Well, I was standing on the porch when he turned off
24 the highway.

25 Q. Okay. And how close was the closest that y'all
26 were? Face-to-face?

27 A. Well, I can't say exact.

28 Q. Just the best you can guess. I'm not trying to pin
29 you down to a number of feet. Was it the distance me and you

1 are? Closer? Further?

2 A. Just a bit further.

3 Q. What did y'all speak about?

4 A. I just spoke briefly to him, asked him what was he
5 doing down here. That was it.

6 Q. Was it anything unusual about seeing him down there?
7 Did you normally see him down there?

8 A. I hadn't seen him before.

9 Q. Okay. Which direction did he go after y'all spoke?

10 A. Back behind. Towards Angelicas.

11 Q. Okay. And how long were you able or how long did
12 you watch him after he walked on from your house down toward
13 Angelica?

14 A. Just a few minutes.

15 Q. Okay. How close or how far did he get, and did you
16 walk off? Did he go out of sight? Why did you not see him go
17 further?

18 A. I went back in the house.

19 Q. Okay. And what time of morning was this?

20 A. 7:15.

21 Q. How do you know what time it was?

22 A. That is the time I take my sister to work.

23 Q. Okay. Is that what you were fixing to do?

24 A. Right.

25 Q. Mr. Kennedy, do you see the person in this courtroom
26 that walked by your house coming from 51, going by your house
27 and heading toward Angelica on the east side of Highway 51
28 about 7:15 on the morning of the murders?

29 A. Do I see him?

1 Q. Do you see him?

2 A. Yes, sir.

3 Q. Would you point to him and identify him, please?

4 A. Right there. (Indicated.)

5 MR. EVANS: May the record reflect he has
6 identified the defendant, Curtis Flowers?

7 THE COURT: Let it so reflect.

8 MR. EVANS: Tender the witness, Your Honor.

9 CROSS-EXAMINATION BY MR. DEGRUY:

10 Q. Mr. Kennedy, you said you were watching. You just
11 saw Mr. Flowers. You weren't watching where he was coming
12 from or where he was going to.

13 A. I just him coming down the highway. He turned off.
14 I spoke to him, and I went on back in the house.

15 Q. Okay. So after you spoke to him, how long did you
16 stay out on the porch?

17 A. Not long.

18 Q. Like 10 seconds? 30 seconds?

19 A. I don't know exact.

20 Q. What was Mr. Flowers wearing?

21 A. He had on white pants and a gray and black sweater
22 at that time.

23 Q. This is -- were these long pants or short pants?

24 A. Long pants.

25 Q. Okay. And you said it was at 7:15. What time was
26 your sister supposed to be at work?

27 A. 7:30.

28 Q. She go to work at 7:30 every day.

29 A. That's right.

1 Q. What time were -- you usually drive her to work?

2 A. At that time, yeah.

3 Q. Okay. What time did you have to leave to get her to
4 work?

5 A. 7:15.

6 Q. Okay. So you were waiting on her. Is that why you
7 were outside?

8 A. That's right.

9 Q. On Angelica Street, there are houses on Angelica,
10 too, aren't there? It is not just the plant; is that right?

11 A. That's right.

12 Q. And then there are cut through streets too. You can
13 get off on, I think, Church Street off of Angelica.

14 A. At the end.

15 Q. All right.

16 A. Yeah.

17 Q. I think you have already testified you have no idea
18 where he was heading, where he was going. Could have been a
19 lot of places.

20 A. All I know he just went down the street.

21 Q. Now, do you remember when it was you first talked to
22 anybody in law enforcement? Do you remember who it was you
23 first told what you saw?

24 A. Hargrove.

25 Q. Okay. And was that about a month after or two
26 months after the killings?

27 A. I don't know the exact --

28 Q. It was sometime around that, a month or two.

29 A. Could have been.

1 Q. Now, you read the Winona Times, is that correct,
2 regular newspaper reader?

3 A. (Shook head.)

4 Q. You don't.

5 A. No.

6 Q. Have you previously testified that back in '96 you
7 read the paper regularly?

8 A. No.

9 Q. Back in '96 you knew a reward had been put up in
10 this case.

11 A. No.

12 Q. Had you testified previously that you knew there was
13 a reward?

14 A. No.

15 Q. Are you telling me you don't remember, or are you
16 definite you did not testify that way?

17 A. About the reward, I didn't know nothing about that
18 now.

19 MR. DEGRUY: I have no other questions.

20 REDIRECT EXAMINATION BY MR. EVANS:

21 Q. Did you later find out that there had been a reward
22 issued?

23 A. Later I did, yeah.

24 Q. Does your testimony have anything to do with the
25 reward?

26 A. No, sir.

27 Q. Have you ever asked anybody for a reward?

28 A. No, sir.

29 Q. Is what you are telling this jury what you saw?

1 A. Yes, sir.

2 Q. And you volunteered that information to Chief
3 Hargrove.

4 A. Yes, sir.

5 MR. EVANS: Nothing further.

6 THE COURT: Is he excused?

7 MR. EVANS: Yes, sir.

8 THE COURT: Mr. Kennedy, you may step down.

9 You are free to go. And you can go home or wherever you
10 need to go.

11 THE WITNESS: Thank you, sir.

12 MR. EVANS: Catherine Snow would be our next
13 witness.

14 (THE WITNESS ENTERED THE COURTROOM.)

15 THE COURT: Do you solemnly swear or affirm
16 that the testimony you give in this case will be the
17 truth, the whole truth and nothing but the truth, so help
18 you God?

19 THE WITNESS: I do.

20 THE COURT: Come around, please, and have a
21 seat.

22 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

23 For the benefit of the record, please, state your
24 name.

25 THE WITNESS: Catherine Snow.

26 THE COURT: You may proceed.

27 MR. EVANS: Thank you, Your Honor.

28 CATHERINE SNOW, Called on behalf of the State, having
29 been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION BY MR. EVANS:

Q. Miss Snow, that microphone does not amplify your voice. I want you to speak loud so that everybody up here can hear you. Okay?

A. Okay.

Q. How you doing this evening?

A. I'm all right. You?

Q. Doing fine.

Miss Snow, I want to direct your attention back to the morning of the murders at Tardy Furniture, July 16, 1996. Where did you work at that time?

A. Angelica sewing factory.

Q. That is here in...

A. Winona.

Q. What hours did you work?

A. 7:00 to 3:00.

Q. Okay. Speak up just a little, please.

A. Okay. 7:00 to 3:00.

Q. What time did you get to work that morning?

A. I was running a little bit after 7:00.

Q. Okay. And by a little bit, I'm not asking exact, but as close as -- are you talking about a minute or two or longer?

A. No later than like five or anywhere from 7:00 to 7:05.

Q. Okay. Was there any significance about you being late? Did it cause any kind of problem?

A. It did, because I didn't have a, a parking space that was close enough. So I parked in the area that wasn't a

1 parking area. So I parked there so I could go and clock back
2 -- clock in.

3 Q. Okay. Did you go in and clock in?

4 A. I did.

5 Q. Did you have an occasion to go back out to your car?

6 A. I did. I had some work on my line. And I normally
7 time myself. And I knew how long it took me to do at least
8 ten pieces. When I finished it was about 7:15. I asked my
9 supervisor could I go outside to move my car, because I was in
10 a area where the trucks would have to turn when they come in
11 so they wouldn't hit my car. And I parked on the far end of
12 the back line.

13 Q. Okay. And you said that was around 7:15.

14 A. 7:15.

15 Q. Did you have an occasion when you walked outside to
16 see anyone?

17 A. I did.

18 Q. Who did you see?

19 A. Curtis Flowers.

20 Q. Where was he?

21 A. He was leaning on the front end of Doyle Simpson
22 car.

23 Q. Where was Doyle's car parked?

24 A. It was parked on the very front parking space on the
25 front line.

26 Q. Did he normally park there?

27 A. That was his every day parking.

28 Q. Did you know his car when you saw it?

29 A. I did.

- 1 Q. Did you know Doyle?
- 2 A. I know Doyle.
- 3 Q. Okay. How long had you known Curtis Flowers at that
- 4 time?
- 5 A. It been some years.
- 6 Q. Okay. How close did you come to him?
- 7 A. It was two car passing lengths.
- 8 Q. All right. Can you -- can you tell me whether to
- 9 come up or go back? I want to know the approximate distance.
- 10 A. It was -- I would say where you at. Come up just a
- 11 little, because the passing space was tight.
- 12 Q. I don't want to walk too fast.
- 13 A. That about good enough.
- 14 Q. Y'all were this close.
- 15 A. It was close enough for me to look him straight in
- 16 his face.
- 17 Q. You were looking straight in his face.
- 18 A. In his face.
- 19 Q. Did y'all have any conversation?
- 20 A. No more than spoke to each other.
- 21 Q. Y'all did speak.
- 22 A. I spoke first, and he spoke to me.
- 23 Q. Any question who you saw standing by Doyle Simpson's
- 24 car?
- 25 A. No doubt.
- 26 Q. Do you see the person in the courtroom?
- 27 A. Yes, sir.
- 28 Q. Would you point to him and identify him, please?
- 29 A. Right there. Curtis Flowers.

1 MR. EVANS: May the record reflect that she has
2 identified the defendant, Curtis Flowers?

3 THE COURT: Let it so reflect.

4 Q. Did you have an occasion to find out that morning
5 that anything had happened to Doyle's car?

6 A. It was later on, close to our breaks.

7 Q. About what time would that have been?

8 A. It was after 10:00. And I was listening to my
9 radio. I had a cassette player on.

10 Q. Without going into what anybody told you, because we
11 can't go into hearsay, what did you find out in general?

12 A. In general, that his gun was stolen and people had
13 been killed at Tardy's.

14 Q. Did you make any connection between the gun being
15 stolen and the people being killed at Tardy's?

16 A. I did.

17 Q. What connection was that?

18 A. For one reason, the gun that was stolen out of
19 Doyle's car and four people was killed. And I was scared.

20 Q. Who were you scared of?

21 A. Curtis.

22 Q. Why were you scared at that point?

23 A. Because it was a possibility. I was scared. I had
24 been seen.

25 Q. You had been seen by who?

26 A. Curtis.

27 Q. Not only did you know him, but he knew you, too; is
28 that right?

29 A. That's right.

1 Q. Did you have an occasion to tell Doyle who you saw
2 by his car?

3 A. I did.

4 Q. Do you remember when you told him?

5 A. It's more -- I wouldn't exactly say the day of.
6 Possibly the day after.

7 Q. Possibly the day after.

8 A. The day after.

9 Q. And you told him it was Curtis Flowers.

10 A. I did.

11 Q. At first did you tell the officers who you saw?

12 A. I didn't.

13 Q. Why?

14 A. Scared.

15 Q. When did you finally tell him who it actually was?

16 A. When they did a picture line-up.

17 Q. Did you need that picture line-up to identify him?

18 A. I didn't.

19 Q. And who did you see?

20 A. Curtis Flowers.

21 MR. HILL: Tender the witness, Your Honor.

22 CROSS-EXAMINATION BY MR. DEGRUY:

23 Q. Miss Snow, how long had you worked with Doyle
24 Simpson?

25 A. I had been at Angelica a good while. I had been
26 working with Doyle a couple of years. Exact number, I
27 couldn't tell you.

28 Q. Were you and Mr. Simpson close friends?

29 A. We seen each other every day that we worked.

1 Q. Were y'all friends?
2 A. We were good associates.
3 Q. Are you still friends with him?
4 A. Whenever I see him, I recognize and speak to him
5 like I normally do with everybody else.
6 Q. And you said you knew Curtis Flowers before July 16.
7 How, how was it you knew him?
8 A. I had seen him at groups, singing places singing. I
9 have seen him different places, you know. Just, you know, I
10 wouldn't say we friends, no best of friend, or personal
11 one-on-one thing, but I knew him.
12 Q. But you used to go where he would sing.
13 A. Yeah, I seen him.
14 Q. Now, on the day of the killings, do you remember who
15 you spoke to with law enforcement? Do you remember who it
16 was?
17 A. I remember.
18 Q. And who was that?
19 A. Doug was one of them. John Johnson, he was there.
20 And the rest of the them. I don't know them all by name.
21 Q. So you spoke to people from the district attorney's
22 office.
23 A. I did.
24 Q. And at that time you told them you saw somebody, but
25 you didn't say it was Curtis.
26 A. I didn't say.
27 Q. And the police came back to you several times before
28 you told them it was Curtis; is that right?
29 A. That's right.

1 Q. Some time in all this you learned there was a reward
2 being offered.

3 A. Yeah, it was well known.

4 Q. Well known. All over town then?

5 A. Right.

6 Q. When you first told the police, you gave them a
7 description of somebody 5'6". Do you remember that?

8 A. I can't remember exactly.

9 Q. But you later changed that description.

10 A. Excuse me. Description. I never changed my
11 description.

12 Q. Now, you've testified that you were scared and that
13 you were scared of Curtis Flowers. But you were there talking
14 to the police; right?

15 A. Yeah, I talked to the police.

16 Q. Well, don't you think if you saw somebody that you
17 think just killed four people, it would be safer to tell the
18 police than not tell them?

19 A. At the time, that time, be honest with you, I didn't
20 want to even be involved in it. But I knew that they knew
21 that I knew something, because they kept coming back.

22 Q. So it wasn't because you were scared. It was just
23 you didn't want to be involved.

24 A. I was scared. I didn't want to be involved. I was
25 scared. And to this day, I'm still scared.

26 Q. So it was both of them - that you were scared and
27 you didn't want to be involved. .

28 A. I was scared and didn't want to be involved.

29 Q. Okay. Now, what was -- what was the person wearing

1 that was standing out by this car?

2 A. As far as wearing, I remember white. I remember
3 black. It's been a long time ago, but I do know who I seen
4 and talked to that day.

5 Q. Okay. So you remember white and you remember black.
6 What color was the shirt?

7 A. I'm not for sure. I'm thinking it was black --
8 white. Excuse me. White. But I'm not for sure about that.
9 But I did know who I seen that day.

10 Q. Was it a long sleeve or short sleeve?

11 A. I'm unsure.

12 Q. What kind of shirt was it? Was it a t-shirt, or was
13 it a dress shirt?

14 A. I'm the type of person that when I see peoples, I
15 really don't pay attention to what they are wearing or nothing
16 like that, not even what they are driving. But I do, again,
17 know who I seen.

18 Q. And it was a white shirt and black. I assume you
19 mean black pants.

20 A. White and black. That is more of my description.
21 White shirt. Black pants.

22 Q. Okay. Wasn't wearing a jacket.

23 A. No. That I know for sure.

24 Q. Wasn't wearing a sweater.

25 A. Wasn't.

26 Q. Okay. Now, you said that first you spoke to Doyle a
27 day, maybe a day after these killings; is that right?

28 A. That's right.

29 Q. Okay. Where were you when you talked to him?

1 A. At work. At my sewing machine.

2 Q. Okay. When you talked to him, you just gave him a
3 description of, of the clothing that the person was wearing.

4 A. No, I told him. I remember telling him who it was.

5 Q. You telling me that the day after the killings that
6 you told Doyle Simpson it was Curtis Flowers.

7 A. I did.

8 Q. I believe you told the district attorney that you
9 didn't need to look at a line up; right? You didn't need to
10 look at the photo line-up because you already knew who Curtis
11 Flowers was.

12 A. I told them that -- when the line-up -- when --
13 before they even -- which it was 3:25. I remember that well.
14 And then they asked me would I be able to describe him again
15 if I ever -- know who he was if I ever seen him again. And I
16 told them yes.

17 Q. Why didn't you just tell them it was Curtis Flowers?

18 A. Because I was scared and didn't want to be involved.

19 Q. And did seeing the line-up make you not scared
20 anymore?

21 A. No. It didn't make me not scared anymore. As I
22 said, I still be scared. Whenever this come up, I'm scared.

23 MR. DEGRUY: I have no further questions.

24 REDIRECT EXAMINATION BY MR. EVANS:

25 Q. Miss Snow, have you ever asked anybody for one penny
26 of reward?

27 A. Never. Nobody's life ever meant money to me.

28 Q. That had nothing to do --

29 A. Nothing.

1 Q. -- with you telling who you saw by the car that the
2 gun that murdered four people was stolen out of.

3 A. No money had nothing to do with it.

4 MR. EVANS: Nothing further, Your Honor.

5 THE COURT: Is she free to go?

6 MR. EVANS: Yes, sir.

7 THE COURT: Miss Snow, you may step down. You
8 are excused as a witness. You are free to go.

9 MR. EVANS: Your Honor, if you give me just a
10 minute, I think Mr. Balash is going to be next if he is
11 ready.

12 THE COURT: If you want to step out and check
13 on him.

14 MR. EVANS: He is ready, Your Honor, and he has
15 not been sworn either.

16 (THE WITNESS ENTERED THE COURTROOM AND WAS ADMINISTERED
17 THE OATH.)

18 THE COURT: If you will come around, please,
19 and raise your right hand and take the oath.

20 Do you solemnly swear or affirm the testimony you
21 give in this case will be the truth, the whole truth and
22 nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE COURT: Please have a seat.

25 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

26 THE COURT: State your name for the record,
27 please.

28 THE WITNESS: David Balash.

29 THE COURT: Proceed.

1 MR. HILL: May I proceed, Your Honor?

2 DAVID BALASH, Called on behalf of the State, having been
3 duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION BY MR. HILL:

5 Q. Good afternoon, Mr. Balash.

6 A. Good afternoon, sir.

7 Q. Would you tell the ladies and gentlemen of the jury
8 how you are employed, sir?

9 A. How I am employed currently?

10 Q. Yes, sir. How are you employed?

11 A. I'm an independent firearms examiner and a forensic
12 science consultant.

13 Q. Okay. Tell us a little bit about your training,
14 your training and your background that qualify you to do what
15 you do for a living, sir.

16 A. My training and qualifications for firearms
17 identification began in September of 1966, when I enlisted in
18 the Michigan State Police, was assigned to recruit school.
19 Spent 13 weeks at a recruit school and graduated and was
20 assigned as a road trooper for five years - first at the Niles
21 Michigan Post for about two and a half years, and then for
22 another two and a half years at the Sandusky Post.

23 At the end of that time, I was transferred into the
24 forensic science division, which is the laboratory section of
25 the Michigan State Police. And I was assigned to the firearms
26 identification, tool mark, bombs and explosives unit and was
27 assigned to the Plymouth laboratory to train and eventually
28 work at that laboratory.

29 I worked there at the Plymouth facility until it

1 transferred or moved physically to the Northville laboratory
2 and worked for the next 20 years in the firearms
3 identification, tool mark, bombs and explosives unit. And I
4 rose to the rank of detective lieutenant, and I was in charge
5 of the unit.

6 Q. How many years have you been a firearms examiner?

7 A. Now it's about 36 years, sir.

8 Q. Okay. Have you ever been qualified in -- by courts
9 as being an expert in firearms, firearms identification?

10 A. Yes, sir, it is. I have.

11 Q. If you would, just give us an indication of how many
12 times you've been qualified and where you've been qualified,
13 what courts have qualified you?

14 A. I've probably been qualified in excess of 400
15 occasions and the courts have been the majority in the Detroit
16 metropolitan state of Michigan area, in and around the Detroit
17 metro area, probably three-quarters of those testimony.

18 The other places that I've testified at have been in the
19 circuit, district and federal courts in Wisconsin, Illinois,
20 Oklahoma, Mississippi, Ohio, and, I believe, California, is
21 the ones that come to mind.

22 Q. All right, sir. Thank you.

23 Your Honor, at this point I'm going to tender Mr. David
24 Balash as an expert in the field of firearms identification.

25 MR. DEGRUY: We have no questions of Mr.
26 Balash.

27 THE COURT: I'll allow him to testify as an
28 expert in that field.

29 THE WITNESS: Thank you, Your Honor.

1 Q. (By Mr. Hill:) Mr. Balash, because of your
2 expertise in firearms identification, were you called upon to
3 come to, to look at some evidence in this case and asked to
4 come to the crime lab in Jackson, Mississippi, I think, back
5 in '97 or '98, something like that, a long time ago?

6 A. It would have been in 1998. Yes, sir, I was.

7 Q. Do you -- did you examine some evidence at the lab
8 there then in regard to this case?

9 A. I did.

10 Q. Do you believe if you saw those items of evidence
11 again you would be able to identify them?

12 A. I do.

13 Q. All right. Mr. Balash, I'm going to take these one
14 at a time, if I may. Each of these items that I'm going to
15 show to you are marked with a blue sticker that has an exhibit
16 number.

17 This one is S-88, State's Exhibit 88. That's been
18 received into evidence already. Would you look at that and
19 tell us if you can identify that box as one that you've
20 examined before?

21 A. State Exhibit 88 is a white pill box sealed with
22 evidence tape and the state's sticker. And I'm looking for my
23 markings on there. And I see them on the corner, which is
24 621-98 and my initials, D.E.B. It also has my initials D.E.B.
25 on the tape, which indicates that once this was sealed back in
26 here that it has not been opened. And this is a fired
27 cartridge case.

28 Q. What can you tell us about, let's say, the
29 manufacturer or the caliber? What can you tell us about that

1 particular cartridge case?

2 A. This one is a C.C.I. fired cartridge case, which
3 means it's an aluminum fired cartridge case. It's a .380 auto
4 caliber fired cartridge case. And it has two little letters
5 on either side of the primer cup an "N" and "R", which mean
6 non-reloadable.

7 Q. Okay. And I'll just -- does that mean what it
8 sounds like what it means?

9 A. Well, they are designed not to be reloaded.
10 American cartridges are normally single primer cartridges,
11 Berdan prime. And these are Boxer prime, which means that
12 there are two flash holes in the bottom.

13 An American cartridge normally would have one flash hole.
14 And the primer cup would have a small, little anvil, a piece
15 of metal in it to cause it to fire. And all you have to do to
16 reload these is pop that out and put a new primer in.

17 With this one, that anvil is already included in the
18 cartridge case itself. So you'd have to put a primer that
19 does not contain an anvil on there. These type of cartridges
20 are less expensive to manufacture, and they are made to be
21 used one time and not reloaded.

22 Q. All right, sir. I want to hand you State's Exhibit
23 89, ask if you can identify that for us, please, sir.

24 A. State's Exhibit 89, again, is a white pill box.
25 It's sealed. It has my lab number 621-98, my initials. It is
26 also sealed in evidence fragile tape, with my initials on it.
27 It has not been opened. And it reportedly and should contain
28 one .380 auto caliber Remington Peters fired cartridge case.

29 Q. So, is that the same caliber -- could that cartridge

1 be fired in the same kind of weapon that the previous C.C.I.
2 cartridge was fired in?

3 A. Right. C.C.I. is a brand name. Remington is a
4 brand name. .380 is a caliber.

5 Q. Both of those are .380 caliber.

6 A. And both of these are .380 caliber.

7 Q. I hand you State's Exhibit Number 90.

8 A. In State's Exhibit 90. It's a white pill box,
9 again, sealed with fragile tape. It has my laboratory number
10 and my initials on it. It reportedly contains one C.C.I.
11 non-reloadable .380 auto fired cartridge case.

12 Q. Did you examine it as well?

13 A. I did, sir.

14 Q. And you used the word it reportedly contains. Is
15 that what you found in it?

16 A. That is what was found in it. And that is what is
17 in it now, because it is sealed. And that seal has not been
18 broken.

19 Q. Okay. I hand you State's Exhibit 91. Would you
20 look at that please and identify it, if you can?

21 A. State's Exhibit 91, again, is a white pill box. It
22 has my laboratory number and my initials. It, again, is
23 sealed with fragile evidence tape. That has not been damaged.
24 It, again, reportedly contains a .380 auto C.C.I.
25 non-reloadable fired cartridge case. I do recognize this
26 item.

27 Q. And I hand you now State's 92 and ask you to
28 identify that, if you would, please.

29 A. Again, State's Exhibit 92 is a white pill box. It's

1 sealed. It has my laboratory number, my initials on it. It
2 has the same fragile tape, unbroken. It's difficult to read,
3 but this one appears to have a fired cartridge case in it.

4 But the tape -- I cannot quite read it, but there should
5 be a Winchester fired cartridge case in this one.

6 If I refer to my report --

7 Q. Please, sir.

8 A. -- to be more specific, sir.

9 Q. Yes, sir.

10 A. Yes. According to my report, it should contain a
11 Winchester .380 auto fired cartridge case.

12 Q. Mr. Balash, did you examine all five of the
13 cartridge casings that are in those five little white boxes?

14 A. I did, sir.

15 Q. If I kept -- correctly followed your testimony,
16 there are three C.C.I. brands; is that correct?

17 A. It is.

18 Q. Three aluminum and three -- what, what is the
19 composition?

20 A. There are three C.C.I. aluminum fired cartridge
21 cases. There is one Remington Peters brass fired cartridge
22 case. And there is one Winchester fired cartridge case. All
23 of them are .380 auto caliber.

24 Q. Is what Winchester brass too?

25 A. That is correct, sir.

26 Q. So there is three aluminum and two brass.

27 A. That is correct, sir.

28 Q. All right, sir. Would you tell us when you look at
29 those five casings what you did to examine them? In other

1 words, what examination did you make of them besides
2 determining that they are all .380 auto caliber, what you --
3 how you looked at them and what you saw when you did examine
4 them?

5 A. Well, I examined them. First, probably looked at
6 them in a stereo microscope. It's a low power binocular scope
7 that's -- you look at one field at a time just to see what was
8 there, make sure the markings were correct, what was on them.
9 And then determining that they were all .380 auto caliber,
10 that they all had similar breech markings to them, striations
11 along the side, I utilized the comparison microscope.

12 And I would have taken one of them, probably the one that
13 was marked the best and consider that to be my test, my
14 standard. So I placed that on the right stage of a comparison
15 microscope. I would then take one of the other cartridges,
16 put it on the left stage of the microscope.

17 And a comparison microscope is a compound microscope that
18 allows me to look at two stages simultaneously. And on the
19 surface area of these cartridge, when they are fired in a
20 weapon they can leave repeatable markings on that cartridge
21 case. So therefore, that's what I'm looking for. Do they
22 agree or do they not agree?

23 And what I would look for with an open mind is to whether
24 I thought they looked similar or not. And once I made a
25 determination that I thought they did, then I would look for
26 specific marks to see whether I could conclude that they were
27 fired in the same weapon. And I did determine that each of
28 these were fired in the same weapon. So only one weapon fired
29 all five of these cartridge cases.

1 Q. Okay. You said it was your opinion - and I may ask
2 and I do is ask - is that to a reasonable degree of scientific
3 certainty, your opinion, that all of those five cartridge
4 casings, those cartridges when they were cartridges, were all
5 fired in the same weapon?

6 A. It is to a reasonable scientific degree. And for me
7 to say a positive identification, it has to be 100 percent.
8 It cannot be anything less. It can be absolutely no doubt in
9 my mind that they were all fired in the same weapon. And
10 there is no doubt whatsoever these were all fired in the same
11 weapon.

12 Q. You looked at a good bit -- let me rephrase that.
13 You looked at several item besides those five. I believe you
14 looked at some others. One I have here that I would like to
15 ask you about. Let's see what number it is here.

16 I want to hand you what's been marked as State's Exhibit
17 Number 81. And I would ask you about that item. First of
18 all, can you identify it?

19 A. State's Exhibit 81 is a manila envelope. It's
20 sealed and taped shut. On the tape, the fragile tape, it has
21 my initials. On the back of the envelope it has my laboratory
22 number 621-98 and my initials. And the envelope says one
23 spent projectile. That's what is in this, a portion of a
24 fired bullet.

25 Q. Okay. What information -- when you received that to
26 examine that item, fired projectile or projectile, what
27 information did you have about that that you considered in
28 your examination?

29 A. May I refer to my report, again?

1 Q. Please do, sir.

2 A. People's Exhibit 81 was listed as a -- simply a .380
3 auto caliber fired bullet. And it was listed and reported to
4 me to be Doyle's house or post. Which means this came from --
5 not from the scene itself, but it came from a different
6 property, a post that was removed from somebody's property.

7 Q. Okay. And I have Number 82. This is State's 82.
8 Examine that, please, sir.

9 A. State's 82 is a white envelope. It again is sealed
10 with fragile tape. It has my laboratory number, my initials.
11 The fragile tape is not broken. It reportedly contains one
12 projectile. And this was represented as the second bullet
13 removed from the post on the property. I believe it was
14 Doyle.

15 Q. Doyle Simpson's property.

16 A. I simply have Doyle. I believe it is Doyle Simpson.
17 Yes, sir.

18 Q. All right. I am going to leave these up here. And
19 I would ask you, sir, did you examine these two projectiles
20 that you were asked to, those two right there, 81 and 82, that
21 you have, that the information was that they came from Doyle
22 Simpson's post. Did you examine those two projectiles?

23 A. I did, sir.

24 Q. What can you tell us about them from your
25 examination?

26 A. What I can tell you about them is that they are both
27 .380 auto caliber fired bullets. They display class rifling
28 specifications, six lands and grooves with a right twist. And
29 I identified them as having come from the same weapon. So one

1 firearm discharged both of these fired bullets.

2 Q. Okay. And again, I ask you is that opinion of yours
3 that both of those projectiles - that is, the two bullets in
4 State's 81 and State's 82 - that they were fired in the same
5 weapon, is that to a reasonable degree of scientific
6 certainty?

7 A. It is, sir. It is the same criteria I used on the
8 prior exam.

9 Q. So if that is the same criteria, would it be your
10 testimony then that you are a 100 percent sure that those two
11 bullets were fired in the same gun?

12 A. Absolutely 100 percent sure.

13 Q. How did you compare those, if you don't mind, just
14 those two bullets? What markings or what lead you to the
15 opinion that those two bullets in the post were fired in the
16 same gun?

17 A. In looking at the two bullets, I would, again, begin
18 by looking at the bullets, determining what I thought was
19 their caliber. I determined the caliber to be a .380 auto
20 caliber.

21 Then I determine the rifling specifications. In this
22 case, it was six lands and grooves, with a right twist. What
23 that means is on the side of the bullet are gouges scratched
24 in by the manufacturer to allow the bullet to spin in a
25 gyroscopic motion. If you have twist to the right, the bullet
26 will go to the right. If the bullet has twists to the left,
27 it means the bullet was twisting to the left.

28 Colt firearms, for example, almost all have six left
29 rifling specifications. You cannot fire a bullet with six

1 right from a bullet that has six left rifling. It has to come
2 from a similar one. So these both had six right rifling.

3 The rifling was equally distant. Just because the bullet
4 displayed six lands and grooves with a right twist doesn't
5 mean it came from the same gun. Some can be wider. Some can
6 be narrower. These were identical. So the first two criteria
7 were met. The rifling was the same. The caliber was the
8 same.

9 Now I would move to the comparison microscope. And I
10 would take one of these bullets, put it on the stage of the
11 comparison microscope and begin to examine it to look at what
12 the individual markings were.

13 It has gross marks or class marks of six right, but I'm
14 looking now at the individual striated marks contained within
15 the land and groove impressions. And I guess the best way for
16 me to describe that to you, that the palm of my hand were a
17 bullet passing down the barrel, and my glasses here are an
18 obstruction or a small point in the barrel, that as the bullet
19 passes over it is going to scratch it. And it's this
20 scratching that either leaves a raising or a depression in the
21 grooves or the lands of the bullet.

22 And it's these incidental or accidental characteristics
23 that I'm looking for to be able to correlate those marks with
24 the other marks. And that's what I did. To see what on one
25 of those were available, good, individual, identifiable
26 striated marks.

27 And then I would put the second bullet up and begin to
28 compare it. And I would either come to an opinion that it
29 was, that it was not or it could be. In this case I saw

1 enough characteristics that I began to turn them in unison and
2 identify them positively as having been fired from the same
3 weapon.

4 Q. Okay. Direct your attention, if I may, to State's
5 Exhibit Number 80 for identification and ask if you would look
6 at that item and identify it for us, if you can, please, sir.

7 A. State's Exhibit 80 is a white pill box. It has my
8 lab number, my initials on it. States one spent projectile.
9 And according to the side, it says recovered from mattress,
10 Tardy Furniture, I think, Serta brand it says on here.

11 Q. Okay.

12 A. And that is what I have in my notes, sir.

13 Q. Okay. Did you examine that projectile as well?

14 A. Yes, sir, I did.

15 Q. I said it was a projectile. What did you find in
16 the -- to be contained in the box in State's Exhibit 80?

17 A. According to my notes, this is -- again, it's a
18 white pill box. And it contains a full metal jacketed bullet.
19 And this bullet displays ricochet damage to the base.

20 And by saying that this one is a full metal jacketed
21 bullet, it means that it has an exposed lead base. If I say
22 it's a total metal jacketed bullet, it means that the bullet
23 is entirely encased in a copper material. There is no exposed
24 lead to it.

25 So in this particular case there were total metal
26 jacketed bullets, which would be characteristic of C.C.I.
27 brand ammunition. And then there would be full metal jacketed
28 bullets, which would be characteristic of both Winchester and
29 Remington. So in looking at this case, this would have been

1 either the Winchester or the Remington fired bullet.

2 Q. Okay. Mr. Balash, did you -- could you give us any
3 additional detail about your comment that it displayed
4 ricochet damage? What about that bullet was it that caused
5 you to have an opinion that it had ricochet damage on it?

6 A. Well, in looking at this bullet under the
7 stereoscope - and you would also see it under the comparison
8 scope - but in looking at that, the base of the bullet was
9 damaged. It was flattened, and it had damage that is very
10 consistent, in my experience, to a bullet that has struck a
11 very solid object and ricocheted.

12 In other words, it hit something and now it ended up
13 somewhere else. So it's a very characteristic type damage to
14 a bullet. This one displayed it along its base. And I just
15 wrote it on the report that it has noticeable ricochet damage.

16 In a lot of cases that is very important to have known
17 that the bullet ricocheted prior to striking something. For
18 example, if an individual were killed and the bullet showed
19 this, it might not show the intent to have done that if the
20 bullet in the victim were a ricochet bullet as opposed to a
21 direct shot to the victim. So that is always important to
22 note what the evidence is telling you.

23 Q. Okay. And on that bullet that is labeled having
24 come from the mattress at Tardy Furniture in Winona,
25 Mississippi, did you compare that bullet to the other bullets
26 that were recovered from Doyle Simpson's post, State's Exhibit
27 81 and 82?

28 Did you compare the -- and I'm rephrasing the question.
29 Did you compare the bullet in State's Exhibit 80 with the two

1 projectiles, 81 and 82?

2 A. I did, sir.

3 Q. Would you tell us the results of your finding?

4 A. Again, using the comparison microscope I formed the
5 opinion that all three of those fired bullets came from the
6 same weapon.

7 Q. Again, to a reasonable degree of scientific
8 certainty.

9 A. Absolutely 100 percent sure.

10 MR. HILL: Your Honor, at this point I would
11 ask State's Exhibit Number 80, not previously hereto been
12 received into evidence, I ask it now be received.

13 THE COURT: Any objection?

14 MR. DEGRUY: No objection.

15 THE COURT: I'll allow it to be admitted.

16 (THE SMALL WHITE BOX CONTAINING THE PROJECTILE FROM THE
17 MATTRESS PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT NUMBER 80
18 WAS ADMITTED INTO EVIDENCE.)

19 Q. (By Mr. Hill:) Did you examine any additional
20 projectiles that were reported to you as having come from the
21 Tardy Furniture store in Winona, Mississippi?

22 A. I did, sir.

23 Q. Mr. Balash, I now hand you State's Exhibit 83 for
24 identification and ask if you can identify that, please.

25 A. State's Exhibit 83, again, is a white pill box. It
26 has my laboratory number, my initials. It is sealed in tape,
27 and it's hard to read. It's projectile collected, I'm not
28 sure what it is under the tape, if I could refer to my report
29 it might tell me.

1 Q. If you would just tell us, if you have --

2 A. Total metal jacketed bullet.

3 Q. I'm sorry. Say that again.

4 A. It's a total metal jacketed bullet.

5 Q. Okay. What can you tell us about that total metal
6 jacketed bullet?

7 A. It's a fired bullet. It is a .380 auto caliber
8 fired caliber bullet. It has damage to it and it displays
9 class rifling specifications of six lands and grooves with a
10 right twist and could have been fired from the same weapon
11 that fired the three previous bullets that I identified. But
12 I cannot positively say it did or did not get fired by that
13 particular weapon.

14 Q. I hand you State's Exhibit Number 84. Could you
15 tell us what that is, please?

16 A. State's Exhibit 84, again, is a white pill box. It
17 has my lab number and my initials on it. It is sealed in
18 tape. It has not been removed. It is a fired projectile
19 collected from the love seat in the Tardy Furniture store. I
20 do recognize this item, sir.

21 Q. Yes, sir. Can -- what did you -- what findings did
22 you make when you examined that, sir?

23 A. This is a total metal jacketed bullet. And I
24 identified this bullet as having been fired from the same
25 weapon that fired People's Exhibits, I believe, they are 80,
26 81 and 82. So this would be the fourth bullet that was fired
27 from the same weapon.

28 Q. State's Exhibit --

29 A. And it also has severe damage to the bullet,

1 ricochet damage.

2 Q. I hand you State's Exhibit 85, please, sir.

3 A. State's Exhibit 85, again, is a white pill box. It
4 contains fragments collected near Carmen Rigby. It has my
5 laboratory number, my initials. It is sealed in tape. I do
6 recognize this item, sir.

7 Q. Okay. What can you tell us about it?

8 A. This is a fragment of a .380 auto caliber fired
9 bullet. This fragment displays class rifling specifications,
10 six lands and grooves with a right twist.

11 However, it could have been fired from the same weapon
12 that fired the four that I previously identified. But like
13 People's Exhibit 83, I cannot positively say that this came
14 from the same weapon.

15 So it could have been fired from the same weapon, but I
16 cannot positively say that it was.

17 Q. Mr. Balash, I'm going to hand you State's Exhibit
18 Number 86 for identification.

19 A. State's Exhibit 86 clear plastic bag that's opened.
20 It has some markings to it that are fairly well rubbed off. I
21 see my initials on the evidence tape. But I don't see my
22 laboratory number to it, but I would have recorded my
23 laboratory number on it.

24 Contained within this - it is sealed - is a clear
25 plastic tube. And the clear plastic tube indicates fragments
26 from Carmen Rigby. And if I refer to my report, sir --

27 Q. Please.

28 A. -- it reportedly contains two portions of a copper
29 jacket with lead fragments and a quantity of paper fragments

1 of copper and lead. From looking at it, I recognize this as
2 an item that I did examine on this case.

3 Q. Okay.

4 A. This would have been State's Exhibit 86.

5 Q. All right. Just because this stuff has been in this
6 bag, I guess, since 1996, Mr. Balash, and because you've aptly
7 noted that some of the writing on it that appears in magic
8 marker is beginning to rub off, can you tell the ladies and
9 gentlemen of the jury that this is, in fact, an exhibit that
10 you examined related to this case?

11 A. That's absolutely correct. My initials do appear on
12 here. I just don't see my laboratory number, which must have
13 been on here, but I don't see it now. This is an exhibit that
14 I did examine on this case.

15 Q. Okay. Tell us -- you've indicated what your notes
16 reflect. Can you tell us what that is and what your
17 examination revealed, please, sir?

18 A. These are fragments that were removed at autopsy
19 from the body of Carmen Rigby. And the fragment of jacket
20 that is contained within this material I've identified as
21 having been fired from the same gun that fired 80, 81, 82 and
22 84. So this is the fifth item that's fired in the same gun.

23 Q. Now, you made that identification, Mr. Balash,
24 according to your testimony, even though that is a bullet
25 fragment.

26 A. That is correct, sir.

27 Q. And you've indicated in your testimony that this is
28 a bullet that was removed at autopsy from Miss Carmen Rigby.

29 A. That is correct, also.

1 Q. Okay. And your opinion, you're telling these ladies
2 and gentlemen of the jury to a reasonable degree of scientific
3 certainty that the bullet that was removed from Miss Rigby or
4 the bullet fragments here that you've identified in State's
5 Exhibit 86 was fired in the same gun that fired 81, 82 and --

6 A. 80. 81. 82. And 83.

7 Q. Right. 81. 82. And 83. Did I state that --

8 A. 80. 81. 82. 83.

9 Q. All four of those.

10 A. Correct. This makes the fifth.

11 Q. Fifth.

12 A. And I am asserting with 100 percent certainty that
13 the fragment contained within People's S-86 was fired from the
14 same weapon that fired S-80, S-81, S-82 and S-, I believe
15 it's, -84. Yes, sir.

16 Q. I now hand you State's Exhibit 87. Would you look
17 at that, please?

18 A. State Exhibit 87, again, is a clear plastic bag.
19 Again, the writing is pretty-well faded. I see my initials in
20 the fragile tape, but I do not see my laboratory number on it
21 either.

22 This contains a clear plastic tube which contains an
23 amount of cotton, the copper jacket fragment and several
24 fragments of lead which are consistent with core material or
25 the inside of a bullet. I do recognize these items, sir. I
26 did examine them.

27 Q. And that's State's Exhibit -- what number is that
28 you have?

29 A. This is S-87, sir.

1 Q. What was the information -- you may refer to your
2 notes if you need to. What information did you have about
3 that exhibit?

4 A. I have it marked as coming from the medical
5 examiner. So it would have been autopsy. To exactly which
6 autopsy, at this point I don't recall. I am sure I have it on
7 a note somewhere, but I don't recall which autopsy.

8 Q. Okay. Tell us what S-87 is.

9 A. S-87 is a fragment of a bullet jacket and several
10 fragments of lead material. And those fragments of lead
11 material are consistent with bullet core material.

12 Bullets of this type are made with a copper jacket on the
13 outside, and that's for the rifling to adhere to. But the
14 heavy material that causes the bullet to have weight is lead,
15 and that is called core or inner material. This is consistent
16 with the inner material of a fired bullet.

17 Q. How long -- is there anything consistent with those
18 fragments, anything consistent with the other firearms
19 identification evidence that you have up there?

20 A. Yes, sir, there is.

21 Q. Would you tell us what that is, please?

22 A. The fired bullet jacket on this S-87 also has the
23 same rifling specifications, six lands and grooves with a
24 right twist. It could have been fired from the weapon that
25 fired all the other material that I've identified, but I
26 cannot identify it with that material. The fragment was too
27 small, too badly damaged.

28 So all I can say is that it could have been fired, but it
29 could not be eliminated from having been fired. So it's in

1 the could have been fired category.

2 Q. Now, I do -- I am going to ask you again. You
3 indicated that you could look at your notes. And what I would
4 like to determine from you, if I can, and indicating,
5 indicating to see if your notes indicate. And my question is
6 if you have any indication in your notes about State's Exhibit
7 Number 87 and whether that -- those fragments were removed at
8 autopsy from Mr. Robert Golden.

9 A. Yes, sir. I have that. I believe it's -- depends
10 on which -- there are a number of markings, but this would
11 have been the fragments removed from Robert Golden at autopsy.

12 Q. All right, sir. Now, I want to hand you one
13 additional exhibit. This is State's 93 for identification.
14 Take a look at that, please, sir.

15 A. State's Exhibit 93, again, is a pill box. It has
16 evidence tape securing it. It has my initials, my laboratory
17 number on it. It contains one C.C.I. cartridge. That means
18 it's an entire cartridge, which unfired primer, the cartridge
19 case, it has gunpowder in it, and it has a bullet in it.

20 Q. What kind of bullet?

21 A. It's a .380 auto caliber cartridge.

22 Q. Was there -- were there any significant markings?
23 Or if you would, maybe -- let me rephrase that question. When
24 you examined that, would you tell us the result of your
25 findings when you looked at that bullet?

26 A. In looking at this, this was a cartridge found at
27 the scene. It's not normal to find a cartridge at a scene.
28 You would normally find fired bullets or fired cartridge
29 cases. This was an entire cartridge.

1 And when one looked at it, there is damage to the nose of
2 this cartridge, which is characteristic of having been jammed
3 in the mechanism of a firearm. In other words, the pistol
4 that fired all these ammunition portions here is a
5 semi-automatic, which means when you pull the trigger, the
6 cartridge in the chamber fires, the gases expel the bullet
7 from the barrel. And the gases also exert pressure on the
8 slide, cause the slide to move backward to extract the fired
9 cartridge case. And if there is a new cartridge in the
10 magazine, to pick it up and reinsert it into the chamber.

11 What happened in this case, in either manually racking or
12 putting a cartridge into it or during the fire sequence this
13 cartridge jammed against the, the chamber area of the barrel
14 of the weapon causing it to jam. And in doing so, the jam
15 would have been cleared. The cartridge probably fell to the
16 ground.

17 But it left a characteristic mark on the nose or the
18 front portion of the bullet indicating to me that it had been
19 caused by a jam in the mechanism, had to be cleared and then
20 another cartridge would have been placed in the -- in the
21 chamber.

22 Q. Mr. Balash, you've already testified about the five
23 cartridge casings, and you've further testified about the
24 projectile evidence. And now you just told us about the
25 unfired round. Is there any way that you could correlate any
26 of the projectiles to the particular -- those cartridge cases
27 that you've testified about? Is there any correlation at all
28 between the, the cases and the projectiles?

29 A. There is, sir.

1 Q. Tell us what that is, please.

2 A. In my examination of the evidence, it's -- all of
3 the evidence is consistent with what was recovered. In other
4 words, there were C.C.I. brand fired cartridge cases found at
5 the scene. There were C.C.I. brand fired bullets found at the
6 scene. There were -- a Winchester fired cartridge case and a
7 Remington Peters fired cartridge case. There were Remington
8 Peters and Winchester brand bullets that were involved in this
9 case.

10 All the bullets and the bullet fragments displayed class
11 rifling specifications, six lands and grooves with a right
12 twist. They are all .380 auto caliber. Everything is
13 consistent and everything matches one to the other. There is
14 no part of the evidence that is inconsistent with the .380
15 auto firearm and one firearm only.

16 Q. Did I understand you to say one firearm only?

17 A. Correct. What I can't tell you, there is only one
18 firearm that fired those five bullets or portions of bullets
19 that I told you about. Only one firearm fired these five
20 cartridge cases.

21 But I cannot tell you that is the bullet -- the gun that
22 fired those five bullets is the same gun that fired these five
23 cartridge cases. They could actually be different. Somebody
24 could have been crafty enough to, to fire five or six shots at
25 the store of the same mix of bullets of C.C.I., Remington and
26 Winchester and then pick up the five fired cartridge cases at
27 the scene and replace them with five cartridge cases fired in
28 another weapon with the same blend of three C.C.I., one
29 Winchester and one Remington.

1 As unprobable as that is, it's a minute possibility. I
2 cannot say these came from the same gun, but the inference is
3 there.

4 Q. Let me ask you the reverse of that question. You
5 can tell us -- or what can you tell us? Can you tell us the
6 same gun fired all five cartridge cases?

7 A. One gun fired all five of these cartridge cases.

8 Q. What about one gun firing what part of this firearms
9 evidence here?

10 A. Of the five items of evidence, S-80, S-81, S-82,
11 S-86, I believe, and S-84, all five of those items were fired
12 in or from the same weapon. S- -- I don't want to put the
13 wrong one on there. It is S-86.

14 Q. Now, all of the casings, and as best you can tell,
15 is it consistent that a .380 auto fired all of the projectiles
16 and fragments?

17 A. Absolutely. A .380 did fire those.

18 Q. Mr. Balash, with regard to every piece of evidence
19 up there that has rifling on it, were they all of the same
20 classification?

21 A. Yes, sir, they were.

22 Q. Are they all consistent with having been fired in
23 the same weapon?

24 A. Five are identified. And the other three that I did
25 not identify are consistent in all respects to the five that I
26 did identify, except they don't display enough identifiable
27 material for me to positively identify them with them.

28 MR. HILL: Tender the witness, Your Honor.

29 MR. DEGRUY: We have no questions, Your Honor.

1 THE COURT: You may step down, and you are
2 excused as a witness and free to go.

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: Who would the State have next?

5 MR. EVANS: If there is not somebody available,
6 we do have one that we can read that is not as long as
7 the other one.

8 THE COURT: Okay. Check and see.

9 BAILIFF: Your Honor, a juror needs to go to
10 the restroom.

11 THE COURT: We'll take a ten-minute recess.

12 (A RECESS WAS TAKEN.)

13 (MR. EVANS, MR. HILL, MRS. STEINER, MR. DEGRUY, MR.
14 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.

15 PROCEEDINGS IN OPEN COURT WERE AS FOLLOWS:)

16 (THE JURY RETURNED TO THE COURTROOM.)

17 (MR. EVANS, MR. HILL, MR. DEGRUY AND MRS. STEINER
18 APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE THE
19 HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT
20 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

21 (MR. EVANS AND MR. DEGRUY APPROACHED THE BENCH FOR A
22 BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE JURY. THE
23 BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED TO BE
24 TRANSCRIBED HEREIN.)

25 THE COURT: And the Court has one ladies and
26 gentlemen. What is going to happen next is we have
27 another witness who has given testimony at a previous
28 occasion. When they were under oath, this person was
29 sworn in as a witness.

1 She would be a elderly, black female lady. Due to
2 advanced age and health problems, she is not able to
3 testify here in person. But again, she was under oath.

4 And Miss Denley is going to sit here and read the
5 answers that, that Miss Henry gave at that time. These
6 are going to be the words of Miss Henry being read by
7 Miss Denley. But as far as in your minds, believe as
8 such as possible this is coming from Miss Henry.

9 (THE TRANSCRIPT OF THE TESTIMONY OF BENEVA HENRY WAS
10 READ.)

11 (THE TESTIMONY HEARD ON SEPTEMBER 25, 2008, WAS
12 CONCLUDED.)

13 (COURT WAS DULY OPENED ON FRIDAY, SEPTEMBER 26, 2008.
14 MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR. CARTER AND
15 THE DEFENDANT WERE PRESENT. PROCEEDINGS IN OPEN COURT WERE AS
16 FOLLOWS:)

17 (MR. EVANS AND MRS. STEINER APPROACHED THE BENCH FOR A
18 BENCH CONFERENCE HAD OUTSIDE THE HEARING OF THE COURTROOM
19 AUDIENCE. THE BENCH CONFERENCE WAS REPORTED BUT NOT REQUESTED
20 TO BE TRANSCRIBED HEREIN.)

21 (THE JURY ENTERED THE COURTROOM.)

22 THE COURT: Good morning, ladies and gentlemen.

23 JURY PANEL: Good morning.

24 THE COURT: We will proceed at this point.

25 Who is the next witness?

26 MR. EVANS: Edward Lee McChristian, Your Honor.

27 (THE WITNESS ENTERED THE COURTROOM.)

28 THE COURT: Come around, please, face the
29 bench, raise your right and take the oath.

1 (THE WITNESS APPROACHED THE BENCH.)

2 Do you solemnly swear or affirm the testimony you
3 give in this case will be the truth, the whole truth and
4 nothing but the truth, so help you God?

5 THE WITNESS: I do.

6 THE COURT: Come around, please, and have a
7 seat.

8 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

9 THE COURT: State your name for the record,
10 please.

11 THE WITNESS: Edward McChristian.

12 THE COURT: You may proceed.

13 EDWARD MCCHRISTIAN, Called on behalf of the State, having
14 been duly sworn, was examined and testified as follows:

15 DIRECT EXAMINATION BY MR. EVANS:

16 Q. Mr. McChristian, I need you to speak loud, because
17 that microphone does not amplify your voice. All right?

18 A. (Nodded.)

19 Q. If you would, state your name again for the record,
20 please.

21 A. Edward McChristian.

22 Q. All right. Mr. McChristian, I want to direct your
23 attention back to July 16, 1996, the morning of the murders at
24 Tardy Furniture. Where did you live at that time?

25 A. 605 Academy Street.

26 Q. Is Academy Street on the east side of Highway 51?

27 A. Yes.

28 Q. Was there anyone at your house with you that
29 morning?

1 A. Three more fellas were there.

2 Q. Who were they?

3 A. Clarence Forrest. Bernard Seales. And Hammie
4 Harris.

5 Q. What were y'all doing?

6 A. Just sitting on the -- I was sitting on the porch
7 talking to them. They were standing in the yard.

8 Q. All right. Did you have an occasion that morning to
9 see anybody walk by your house?

10 A. When he got right there in front of me.

11 Q. When he got right in front you.

12 A. Right.

13 Q. Who got right in front of you?

14 A. Curtis.

15 Q. Curtis Flowers.

16 A. Flowers.

17 Q. How long had you known Curtis Flowers?

18 A. Well, I been knowing him ever since he was small
19 really.

20 Q. No question about who you saw.

21 A. No question.

22 Q. Was there any conversation between him and anybody
23 there at your house?

24 A. Well, I didn't say anything to him. I think
25 Clarence Forrest said something to him.

26 Q. Which direction was Curtis Flowers walking from when
27 you saw him?

28 A. He was coming from South Academy walking north.

29 Q. All right. So he was walking from the south headed

1 north. Is -- do you know where Angelica is located?

2 A. Not really.

3 Q. Is it south of your house?

4 A. Yes. It's south.

5 Q. How close were you to him when you saw him?

6 A. Well, the house sitting right on the side of the
7 road. It's -- I was pretty close.

8 Q. And you say you saw him face-to-face.

9 A. Yeah.

10 Q. Do you see the person in the courtroom that you've
11 identified as Curtis Flowers that walked by your house on the
12 morning of the murders?

13 A. Yes, sir.

14 Q. Would you point to him and identify him, please?

15 A. Right there. (Pointed.)

16 MR. EVANS: May the record reflect that he has
17 identified the defendant, Curtis Flowers?

18 THE COURT: Let it so reflect.

19 Q. What time did he walk by your house?

20 A. Between 7:30 and 8:00.

21 MR. EVANS: Your Honor, I'll tender the
22 witness.

23 CROSS-EXAMINATION BY MR. DEGRUY:

24 Q. Good morning, Mr. McChristian. You told us you had
25 three friends at your house. It was Mr. Seales, Mr. Forrest.
26 And who was the third one?

27 A. Mr. Hammie Harris.

28 Q. Harris. And you were on the porch.

29 A. Right.

1 Q. And they were in the yard.

2 A. No. Bernard Seales was sitting on the porch with
3 me, but the other two were standing in the yard.

4 Q. Okay. So the person that walked by your house was
5 closer to the people that were in the yard.

6 A. Yeah. But they were facing me. I was facing the
7 street.

8 Q. Okay. So you think they didn't even turn around and
9 look at --

10 A. But Clarence talked to him, Clarence Forrest.

11 Q. And he was one of the ones in the yard.

12 A. Right.

13 Q. Now, are you sure this was between 7:30 and 8:00?

14 A. Well, I can't prove it, because -- well, Clarence go
15 to work at 8:00, and he was still at my house. And he go to
16 work at 8:00. So I didn't jump up and go see the clock now.
17 I didn't do that.

18 Q. So you think --

19 A. So I just said it was between 7:30 and 8:00.

20 Q. Okay. Did -- you didn't see where Mr. Flowers was
21 coming from?

22 A. No, I didn't know.

23 Q. You didn't see where he went.

24 A. No, I didn't do that either.

25 Q. What was he wearing?

26 A. I really looked at him in the face, sir.

27 Q. Okay.

28 A. I couldn't just really tell you.

29 Q. Was he acting unusual in any way?

1 A. No. He wasn't acting unusual or nothing.

2 Q. Now, you didn't -- you remember the day of the
3 shootings at Tardy; right?

4 A. Yeah.

5 Q. You didn't talk to the police on that day, did you?

6 A. No.

7 Q. It was -- how many times did you talk to the police?

8 A. I ain't talked to them but once.

9 Q. Once. And that was some time later.

10 A. Some time later. Yeah.

11 Q. Do you remember who you talked to?

12 A. John Johnson.

13 Q. Was that about a month after the killing?

14 A. I don't know how long it was.

15 Q. You have no, no recollection at all of how long it
16 was.

17 A. I don't really know.

18 MR. DEGRUY: That's all I have, Your Honor.

19 REDIRECT EXAMINATION BY MR. EVANS:

20 Q. Basically, what you are saying is the closest you
21 can pin it down is 7:30 to 8:00; is that right?

22 A. Right.

23 Q. Now, how did you get to John Johnson to give him
24 this information?

25 A. The police officer came, picked me up.

26 Q. Okay. And so they already had some information that
27 you knew something; is that right?

28 A. Right.

29 MR. EVANS: Nothing further of this witness,

1 Your Honor.

2 THE COURT: Is he excused and free to go?

3 MR. EVANS: Yes, sir.

4 THE COURT: Mr. McChristian, you may step down.
5 You may go home or go back to business now.

6 Who would be the next witness?

7 MR. HILL: State would call Miss Elaine
8 Gholston. Elaine Gholston. Gholston.

9 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
10 BENCH.)

11 THE COURT: Come forward and face the bench,
12 please.

13 Do you solemnly swear or affirm the testimony you
14 give in this case will be the truth, the whole truth and
15 nothing but the truth, so help you God?

16 THE WITNESS: I do.

17 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

18 THE COURT: State your name, please.

19 THE WITNESS: Elaine Gholston.

20 THE COURT: If you will, speak a little louder.
21 That is not going to amplify your voice.

22 THE WITNESS: Elaine Gholston.

23 ELAINE GHOLSTON, Called on behalf of the State, having
24 been duly sworn, was examined and testified as follows:

25 DIRECT EXAMINATION BY MR. HILL:

26 Q. Good morning, Miss Gholston.

27 A. Good morning.

28 Q. As the Court was telling you, that microphone there
29 is not for making your voice louder. So I need you to speak

1 loud enough so even the people as far back as I am from you
2 can hear you. Can you do that for us?

3 A. Um-hum. Yes, I can.

4 Q. Miss Gholston, do you remember the morning of the
5 murders at Tardy Furniture store here in Winona, Mississippi?

6 A. Yes, sir.

7 Q. Back on July 16, 1996, where, where were you living?

8 A. 703-B McNutt Drive.

9 Q. Is that Winona, Mississippi?

10 A. Um-hum.

11 Q. Do you remember the day of the Tardy murders?

12 A. Yes, I do.

13 Q. Now, did you know -- can you tell us who lived at
14 702-A McNutt? Would that be near where you lived?

15 A. Across the street.

16 Q. Now, you lived -- let me go back over that again.
17 You lived where?

18 A. 703-B McNutt Drive.

19 Q. And I'm asking if you knew who lived across the
20 street at 702-A.

21 A. Yes, sir.

22 Q. Who was that?

23 A. Curtis Flowers and Connie Moore.

24 Q. Okay. And how long had you lived across the street
25 from Curtis and Connie?

26 A. Probably --

27 Q. At that time.

28 A. At that time. At that time probably about a year,
29 two years.

1 Q. Now, is the person that you've spoken of or
2 testified about, Curtis Flowers, would you recognize him if
3 you were to see him today?

4 A. Yes, I would.

5 Q. Can you tell us whether or not he is in the
6 courtroom here this morning?

7 A. Yes, sir.

8 Q. Would you point to him, please? Point him out for
9 us.

10 A. (Pointed.)

11 MR. HILL: May we have the record reflect, Your
12 Honor, that the witness has identified Curtis Flowers?

13 THE COURT: Let it so reflect.

14 A. Probably about six, seven years.

15 Q. Six or seven years.

16 A. Yes, sir.

17 Q. Okay. Again, you have to speak up loud.

18 A. Okay.

19 Q. Did you see him that morning?

20 A. Yes, sir.

21 Q. About what time was it when you saw him?

22 A. About 6:45.

23 Q. What was he doing when you saw him?

24 A. On the porch. Standing on the porch on his side
25 smoking a cigarette.

26 Q. Okay. Prior to - that is, at some period of time
27 before that morning - had you ever had occasion to observe
28 Curtis wearing any special kind of footwear, any special kind
29 of shoes?

1 A. That morning. You said that morning --

2 Q. From the morning --

3 A. -- that I saw him or before?

4 Q. I'm talking about -- I want to back up from the
5 morning of. Prior to the morning of the murders, had you ever
6 seen Curtis Flowers wearing any unusual or different or maybe
7 special kind of tennis shoes or footwear?

8 A. Yes, sir. Grant Hill Filas.

9 Q. Okay. So can you tell the ladies and gentlemen of
10 the jury how many times that you can say for sure that you saw
11 him wearing some Grant Hill Fila tennis shoes?

12 A. Maybe twice.

13 Q. Okay.

14 A. Maybe twice.

15 Q. Could have been more. But you know it was at least
16 twice.

17 A. Yes, sir.

18 Q. Is that right?

19 A. Yes, sir. Um-hum.

20 Q. Now, over what period of time, Miss Gholston -- in
21 other words, what I'm asking you is from the morning of the
22 Tardy murders going back in time prior to the Tardy murders,
23 over what range of time was it that you saw him wearing the
24 Grant Hill Filas that you are talking about?

25 A. It was --

26 Q. You know, how long before the murders was the first
27 time that you saw it?

28 A. Maybe months. Probably months. Months before the
29 murder.

1 Q. All right. Now I'm going to ask you to be as
2 specific as you can. When you say a month or months, can
3 you -- can you frame that up for us any better than just an
4 open-ended statement like that?

5 A. I know I've seen him wearing the Grant Hill Filas
6 probably prior to the murders. I'm going to say a month
7 before the murders.

8 Q. Okay. Your best estimate.

9 A. My best estimate is a month.

10 Q. About a month before.

11 A. Um-hum.

12 Q. Now, coming toward, that's going back from the
13 morning of the murders a month, if we did that and just
14 calculating the time, July 16 would be about June 16. You are
15 saying somewhere in the timeframe of June of '96, you had seen
16 him wearing --

17 A. Yes, I did.

18 Q. Is that right?

19 A. Right.

20 Q. Now, come forward toward the time of the Tardy
21 murders. When would you say is your best estimate as to when
22 you can say for sure that you saw him up toward the time
23 wearing Fila Grant Hill tennis shoes, up toward the time of
24 the murder?

25 A. Um...

26 Q. In other words, how long before, as shortly before,
27 the murders can you say?

28 A. I -- could you ask that question again?

29 Q. That's a little bit confusing.

1 A. Yeah, it's kind of confusing.

2 Q. It is. And I apologize.

3 A. Yeah.

4 Q. You said you saw him wearing them at least a couple
5 of times.

6 A. Um-hum.

7 Q. What is your best -- what can you say is the best
8 estimate that you can give the ladies and gentlemen of the
9 jury as to when the last time before the murders that you saw
10 him wearing them? In other words, how long before the
11 murders, what was the last time that you saw him wearing the
12 shoes that you could tell them?

13 A. I maybe saw him wearing them about twice. Like,
14 like I said, like a month before the murders.

15 Q. Okay. Now, have you ever testified that you saw him
16 wearing those on the morning of the murders?

17 A. Yes, sir, I did.

18 Q. Okay. Were you telling the truth back then?

19 A. It was back then. I, I remember saying it. I did
20 note that I did say it, but I just can't remember, you know,
21 if he did had them on, which I did say that.

22 Q. You can't be sure now?

23 A. I can't be sure now.

24 Q. Okay. But you can be sure that he did have them.

25 A. Yes, he did.

26 Q. He was wearing them.

27 A. Yes, he was.

28 Q. Within the timeframe of a month or so. You know
29 that for sure.

1 A. Yes.

2 Q. All right. Now, would you tell us, these shoes,
3 kind of give a -- I am not going to ask you to draw a picture
4 or anything, be specific. But what kind of description could
5 you tell us about these Fila Grant Hill shoes as far as what
6 they look like?

7 A. They was red, white and blue. All over white. Red,
8 white and blue symbol like on the side of the tennis shoe.

9 Q. Up around the ankle part.

10 A. Up around the ankle part.

11 Q. Was a symbol there?

12 A. Um-hum. Red, white and blue symbol. Fila.

13 Q. And mostly what color?

14 A. White.

15 Q. And you said they had some blue on them.

16 A. Um-hum.

17 Q. What kind -- where would the blue be located?

18 A. The blue was like located on the ankle part of the
19 tennis shoe.

20 Q. All right. Any striping or other blue, other color
21 on it you recall?

22 A. Mostly white. Red, white and blue. The symbol.
23 Because it like a little symbol, like a circle, on the ankle
24 part of it. And that is where the red, white and blue is.

25 Q. Okay. Now, how do you know, Miss Gholston? How do
26 you know they were Fila Grant Hills?

27 A. Because they was popular back then.

28 Q. You sure they were Fila Grant Hills.

29 A. I know they was.

1 MR. HILL: Tender the witness, Your Honor.

2 CROSS-EXAMINATION BY MR. DEGRUY:

3 Q. Good morning, Miss Gholston.

4 A. Good morning.

5 Q. When you were first asked when you saw him wearing
6 these shoes you said months, as in more than one month; is
7 that correct?

8 A. Correct.

9 Q. And then when he asked you to narrow it down, you
10 said maybe a month.

11 A. Yes.

12 Q. He pointed out that on another time you told him it
13 was that day, but that wasn't correct; right? Isn't that what
14 you just testified to?

15 A. Like I said, he might have had them on that morning,
16 but I'm just -- I just can't remember. Like I said back in my
17 other testimony in '04 that he had them on, which I can't
18 remember if he had them on that morning. But I know I seen
19 him wearing the tennis shoes months before the murder.

20 Q. Months before. Okay. Where was he when you saw him
21 wearing these shoes?

22 A. Across the street. He lived across the street from
23 me.

24 Q. What, what were you doing?

25 A. In my yard.

26 Q. You just noticed him over there wearing these shoes.

27 A. I noticed the tennis shoes. They was popular back
28 then.

29 Q. What other kind of shoes did he have?

1 A. I just noticed those. I don't know what other kind
2 he had.

3 Q. How long did you live across the street from him?

4 A. Probably about two, three years.

5 Q. And in that two- or three-year period you only saw
6 him -- you only noticed his shoes two times.

7 A. Yes.

8 Q. Now, these are men's or boys' shoes; correct?

9 A. Right. Correct.

10 Q. You don't have any sons, do you?

11 A. No, I don't.

12 Q. Now, you just gave a description of the shoe and
13 colors of the shoe. Were these high top shoes or just...

14 A. High top.

15 Q. High tops.

16 A. Yes, they were.

17 Q. You sure they were high tops.

18 A. Positive.

19 Q. And when you -- testifying to what you know, what
20 you saw, it was months before the killings at Tardy's that you
21 saw him on two occasions wearing these shoes.

22 A. Yes.

23 MR. DEGRUY: That's all I have, Your Honor.

24 MR. CARTER: One moment.

25 MR. DEGRUY: Oh, excuse me.

26 That's all I have, Your Honor.

27 THE COURT: Any redirect?

28 MR. EVANS: One minute.

29 MR. HILL: No redirect, Your Honor.

1 THE COURT: Is she excused?

2 MR. HILL: Yes, sir.

3 THE COURT: Miss Gholston, you may step down.
4 You are free to go.

5 Who would you have next?

6 MR. EVANS: Mary Jeanette Fleming would be
7 next, Your Honor.

8 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
9 BENCH.)

10 THE COURT: Come around, please, and face the
11 bench.

12 Do you solemnly swear or affirm the testimony you
13 give in this case will be the truth, the whole truth and
14 nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 THE COURT: Come around, please, and have a
17 seat.

18 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

19 THE COURT: Please state your name.

20 THE WITNESS: Mary Jeanette Fleming.

21 THE COURT: You may proceed.

22 MR. EVANS: Thank you, Your Honor.

23 MARY JEANETTE FLEMING, Called on behalf of the State,
24 having been duly sworn, was examined and testified as follows:

25 DIRECT EXAMINATION BY MR. EVANS:

26 Q. Good morning, Miss Fleming.

27 A. Good morning.

28 Q. I need you to speak loud so that everybody can hear
29 you. Okay?

1 A. Yes, sir.

2 Q. Miss Fleming, I want to direct your attention back
3 to the morning that the people were killed at Tardy Furniture,
4 July 16, 1996. Did you have an occasion to go anywhere that
5 morning?

6 A. I had to go to Weed Brothers to --

7 Q. Where --

8 A. -- drop my car off.

9 Q. All right. I'm sorry. I interrupted you. You had
10 to go to Weed Brothers for what?

11 A. To drop my car off and get a windshield repaired.

12 Q. Where is Weed Brothers located?

13 A. Behind Tardy Furniture company.

14 Q. And you say you had to get a windshield repaired in
15 it.

16 A. Yes, sir.

17 Q. Do you know what time you carried your car to Weed
18 Brothers?

19 A. I left home around ten minutes to 9:00.

20 Q. Okay. At best estimate, about what time did you get
21 to Weed Brothers?

22 A. About five minutes.

23 Q. Okay. So somewhere around 9:00 or five to 9:00.

24 A. Yes, sir.

25 Q. What did you do after you dropped your car off?

26 A. I dropped it off, and I start walking back home.

27 Q. Where did you live?

28 A. I lived on Campbell. I mean I lived on Freeman
29 Street at that time.

1 Q. Freeman Street.

2 A. Yes, sir.

3 Q. All right. Tell the ladies and gentlemen of the
4 jury what direction you walked from Weed Brothers to go home.

5 A. I got -- I got on Carrollton Avenue. I got on
6 Church Street, and I turned off of Church Street. And I got
7 on Campbell Street.

8 Q. All right. When you got on Campbell Street, did you
9 see anybody?

10 A. Yes, sir.

11 Q. Who did you see?

12 A. Curtis Flowers.

13 Q. What was Curtis Flowers doing when you saw him on
14 Campbell Street?

15 A. He was just walking.

16 Q. Which direction was he walking?

17 A. Towards town.

18 Q. Where you saw him on Campbell Street, is that on the
19 east side of Highway 51?

20 A. Yes, sir.

21 Q. How long had you known Curtis Flowers?

22 A. For years and years.

23 Q. So no question about who you saw.

24 A. No, sir. No question.

25 Q. How close did you get to him?

26 A. We walked side by side. Very close.

27 Q. Did you have any conversation with him?

28 A. Yeah. He spoke to me, and I spoke to him back.

29 Q. Okay. Which direction did he go in after y'all met

1 side by side?

2 A. I don't know.

3 Q. When y'all -- when y'all met, which direction were
4 you going?

5 A. I was going towards, towards home. And he was
6 headed towards town.

7 Q. Okay. Do you see the person that you saw walking on
8 Campbell Street toward town that you knew to be Curtis Flowers
9 that morning?

10 A. Yes, sir.

11 Q. Would you point to him and identify him, please?

12 A. Right there. (Pointed.)

13 MR. EVANS: May the record reflect she has
14 identified the defendant?

15 THE COURT: Let it so reflect.

16 Q. (By Mr. Evans:) After you saw Curtis Flowers
17 walking toward town that morning, did you see anybody else in
18 their yard?

19 A. Yes, sir.

20 Q. Who was that?

21 A. Beneva Henry.

22 Q. Okay. Was that after you had met the defendant?

23 A. I believe it was when I was taking my car to the
24 shop.

25 Q. Okay.

26 MR. EVANS: I'll tender the witness, Your
27 Honor.

28 CROSS-EXAMINATION BY MR. DEGRUY:

29 Q. Good morning, Miss Fleming.

1 A. Good morning.

2 Q. Now, you said you were -- when you were taking your
3 car down to Weed Brothers a little bit before 9:00, that is
4 when you saw Miss Henry.

5 A. I believe I did. I believe so.

6 Q. And she was just sitting on the porch.

7 A. Yes, sir.

8 Q. Was there anybody sitting with her?

9 A. I, I didn't see them.

10 Q. You didn't see them. Okay. Now, Miss Fleming, do
11 you know Clemmie Fleming?

12 A. Yes, sir. She is my niece.

13 Q. She is your niece. Are y'all close?

14 A. No, we are not.

15 Q. Back in 1996, did you see Clemmie often?

16 A. Not very often.

17 Q. Now, do you remember this was -- the killings at
18 Tardy were July of 1996; correct?

19 A. Yes, sir.

20 Q. The first time you spoke to the police about this
21 case about -- told them you saw Curtis Flowers, that was in
22 February of 1997.

23 A. I believe so. I can't -- I believe so. I know I
24 was at McDonald's. I was working when they come up there and
25 got me. So I don't know when it was.

26 Q. Months after.

27 A. Yes. Yes, sir.

28 Q. And you had already talked to Clemmie about what you
29 are testifying to today, seeing Curtis Flowers.

1 A. Yeah. I had told her about it.

2 Q. This day you said you saw Curtis, what was he
3 wearing?

4 A. Brown pants. White shirt. Gray jacket.

5 Q. A gray jacket. What kind of jacket was it?

6 A. It was a thin -- like a wind breaker.

7 Q. Were they long pants or short pants?

8 A. Long pants.

9 Q. Was the jacket -- the wind breaker jacket, was it
10 just solid gray or did it have --

11 A. It had something on the shoulder, logos on the
12 shoulder. It was all over gray, but it just had some design
13 on the shoulders.

14 Q. Like a team logo or something.

15 A: Yes, sir.

16 Q. Now, by the time you talked to the police, sometime
17 before that you knew that there had been a reward posted in
18 this case.

19 A. Well, I seen a reward on the pole.

20 Q. There were fliers up around town.

21 A. Yes, sir.

22 Q. Now, back in July of '96, it was -- it was real hot
23 here, wasn't it?

24 A. Yes, it was.

25 Q. But he was wearing long pants and a jacket.

26 A. Yes, he was.

27 MR. DEGRUY: That is all I have, Your Honor.

28 MR. CARTER: One minute, Your Honor.

29 MR. DEGRUY: That's all I have, Your Honor.

1 REDIRECT EXAMINATION BY MR. EVANS:

2 Q. Miss Fleming, is there any question in your mind
3 about who you met walking toward town that morning of the
4 murders?

5 A. No. No question.

6 Q. Now, you were asked about knowing about a reward.
7 Did you tell anybody any of this information for a reward?

8 A. No. Hadn't nobody said anything to me about no
9 reward. I just seen it posted on the pole.

10 Q. And you didn't go volunteer this to the police, did
11 you?

12 A. No.

13 Q. They found out that you had information, and they
14 picked you up and asked you questions.

15 A. Exactly.

16 Q. Who picked you up at McDonald's?

17 A. Didn't nobody pick me up. They had told me to come
18 to the police station. I went myself.

19 Q. Do you remember who that was?

20 A. I remember Johnny Hargrove coming up there after me.

21 MR. EVANS: Nothing further, Your Honor.

22 THE COURT: Is she excused?

23 MR. EVANS: Yes, sir.

24 THE COURT: Miss Fleming, you may step down.

25 You are free to go.

26 Who would you have next?

27 MR. EVANS: Jack Matthews.

28 (THE WITNESS ENTERED THE COURTROOM.)

29 THE COURT: Come around, please. Face the

1 bench. Raise your right arm and take the oath.

2 (THE WITNESS APPROACHED THE BENCH.)

3 Do you solemnly swear or affirm the testimony you
4 give in this case will be the truth, the whole truth and
5 nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 THE COURT: Come around, please, and have a
8 seat.

9 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

10 State your name, please.

11 THE WITNESS: Jack Matthews.

12 THE COURT: That's going to just record. It
13 doesn't amplify.

14 THE WITNESS: Oh, okay.

15 THE COURT: You need to speak a little louder.

16 THE WITNESS: Jack Matthews.

17 JACK MATTHEWS, Called on behalf of the State, having been
18 duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION BY MR. EVANS:

20 Q. Good morning, Mr. Matthews.

21 A. Good morning.

22 Q. How are you presently employed?

23 A. I'm a security director at the Greenwood Leflore
24 Hospital.

25 Q. Would you tell the ladies and gentlemen of the jury
26 a little bit about your law enforcement background?

27 A. Okay. I retired from Mississippi Highway Patrol in
28 2001, and I was employed there for approximately 27 years.

29 Q. Okay. And were you -- I want to direct your

1 attention back to July of '96. In what capacity were you
2 serving at that time?

3 A. I was investigator with the highway patrol at that
4 time.

5 Q. How long had you been an investigator at that time?

6 A. Probably about nine years.

7 Q. All right. Did you have an occasion on the morning
8 of the murders here at Tardy Furniture to be called to assist
9 anyone?

10 A. Yes, I did.

11 Q. Who were you called to assist?

12 A. The Winona Police Department called and advised that
13 they needed our assistance at Tardy Furniture company in
14 downtown Winona.

15 Q. All right. Did any other investigator with the
16 patrol come to assist?

17 A. Yes. Lieutenant Wayne Miller also came.

18 Q. All right. Were there any other investigators that
19 came that morning with the D.A.'s office?

20 A. Yes. John Johnson was also there.

21 Q. Okay. Do you know what time you got to the scene?

22 A. Probably sometime a little after 11:00 that morning.

23 Q. What did you find when you got there?

24 A. When I arrived at the scene, I was met by the Winona
25 Police Chief, Johnny Hargrove. He met me at the -- in front
26 of Tardy Furniture company on Front Street and told me that he
27 had already notified the crime lab, that they were on the way,
28 and that he had secured the scene.

29 Q. Did the scene appear to be secure at that time?

1 A. Yes, it was.

2 Q. Did you go into the scene at that time?

3 A. Yes, I did. Chief Hargrove and I walked into the --
4 through the front door into the scene.

5 Q. What did you observe?

6 A. There were three bodies lying on the floor near the
7 counter area. There was also some hulls scattered on the
8 floor. There was a bloody shoe print there near the counter.

9 Q. Did you attempt to recover any of that evidence?

10 A. We didn't at that time because we knew that the
11 crime lab had already been called, and we were going to let
12 them process the scene. We didn't want to disturb anything
13 until they got there.

14 Q. Who, who with the crime lab came? Do you remember?

15 A. I know Melissa Schoene came and probably somebody
16 else came with her. But I don't remember exactly who it was.

17 Q. Did you have an occasion to also -- I know Melissa
18 Schoene recovered different pieces of evidence at the scene.
19 Did you also have an occasion to recover some evidence at the
20 scene?

21 A. Yes, sir, I did.

22 Q. Do you remember what you recovered?

23 A. Recovered some paperwork there at the scene. We
24 also -- later in the investigation we recovered a spent
25 projectile out of a mattress at the scene. We also recovered
26 a bank bag.

27 Q. Did you also have an occasion to talk with different
28 people at the scene or around that timeframe that may have had
29 connections with the store?

1 A. Yes, we did. We talked with Miss Tardy's daughter
2 there at the -- some time after we arrived.

3 Q. All right. Now, I'm not asking you what anybody
4 told you. But based upon what you found at the scene and
5 talking with individuals like Miss Tardy, did you have an
6 occasion to have someone picked up to talk to?

7 A. We did.

8 Q. Who was that person?

9 A. That was Curtis Flowers.

10 Q. I want to show you Exhibits 42, 43 and 44. And I'll
11 ask you if you would take those in order, starting with 42,
12 and tell the ladies and gentlemen of the jury what it is.

13 A. This is a daily tally sheet where they record their
14 amount of purchases and the deposits for the day.

15 MR. CARTER: Your Honor, I object to that
16 unless he has some kind of personal knowledge what it is,
17 other than what somebody told him.

18 Q. Can you tell by looking at it what it is?

19 A. Well, it appears to be a -- where they keep up with
20 their accounts, the amount of the accounts and the petty cash
21 that they have on hand and the deposits for the day.

22 MR. CARTER: Your Honor, I object again because
23 based on his answer he doesn't really know what that is.

24 THE COURT: He has got something in front of
25 him. Then he said it appears to be. He didn't say that
26 is what it was. He said it appears to be. And if he can
27 look at this document and state what it appears to be,
28 then he may do so.

29 Q. (By Mr. Evans:) Did you recover that document?

1 A. Yes, sir, I did.

2 Q. Where did you recover it from?

3 A. I recovered it from the counter area in the store.

4 Q. Is it in the same condition now it was in at the
5 time you recovered it?

6 A. Yes, sir.

7 MR. EVANS: Your Honor, I offer Exhibit 42 into
8 evidence.

9 MR. CARTER: I need to see it first.

10 No objection.

11 THE COURT: I'll allow it to be admitted.

12 (THE YELLOW DAILY CHECK-UP SHEET PREVIOUSLY REFERRED TO
13 AS STATE'S EXHIBIT NUMBER 42 WAS ADMITTED INTO EVIDENCE.)

14 Q. Mr. Matthews, based upon your experience as an
15 investigator, did you see any significance in that document?

16 A. Well, the petty cash had a total of \$300. So I
17 assumed that there was some cash on-hand there that day.

18 MR. CARTER: Object to the assumption.

19 MR. EVANS: Your Honor, I think that is a very
20 logical assumption he can make based on that document.

21 THE COURT: I will overrule the objection. He
22 has testified to he is reading from the document.

23 Q. (By Mr. Evans:) All right. The next document up
24 there in order, would you take it, please? I think it is 43.
25 Can you tell what that document is?

26 A. This is an index card with Curtis Flowers' name on
27 it. It has got a date of June 29, 1996, and appears to be
28 some times - 9:00 to 12:00, 1:00 to 5:20. Got abbreviated
29 Monday underlined, and the word off. Tuesday it's got 9:00 to

1 11:30. 12:30 to 5:30. And Wednesday 9:00 to 12:05.

2 Q. Did you personally recover that time card?

3 A. Yes, I did.

4 MR. EVANS: Your Honor, I offer it into
5 evidence at this time.

6 MR. CARTER: Just want to see it.

7 No objection.

8 THE COURT: I'll allow it to be admitted.

9 (CURTIS FLOWERS' TIME CARD PREVIOUSLY MARKED STATE'S
10 EXHIBIT NUMBER 43 FOR IDENTIFICATION WAS ADMITTED INTO
11 EVIDENCE.)

12 Q. Exhibit 44. Can you tell us what, what that is?

13 A. This is a check. Tardy Furniture Company.

14 Q. And did you recover that check?

15 A. Yes, sir, I did.

16 Q. Where did you recover it from?

17 A. It was in Miss Tardy's office.

18 MR. EVANS: Your Honor, I offer Exhibit 44 into
19 evidence.

20 MR. CARTER: Let me see it again.

21 No objection.

22 THE COURT: I'll allow it to be admitted.

23 (CURTIS FLOWERS' CHECK PREVIOUSLY REFERRED TO AS STATE'S
24 EXHIBIT NUMBER 44 WAS ADMITTED INTO EVIDENCE.)

25 Q. (By Mr. Evans:) Officer Matthews, on Exhibit 44,
26 the check, now that it's in evidence, would you describe that
27 check to us? What account is it on? Who is it made payable
28 to, the amount and what signature is on the check?

29 A. It's, it's a check on Tardy Furniture Company. It's

1 made payable to Curtis Flowers. Amount of \$82.58. And it's
2 signed by Bertha Marie Tardy.

3 MR. EVANS: All right. Your Honor, may I
4 pass -- have these three items passed to the jury while I
5 continue?

6 THE COURT: You may.

7 (THE EXHIBITS WERE PUBLISHED TO THE JURY.)

8 Q. Officer Matthews, I don't want to bounce around, but
9 there is certain things that I want to make sure that I cover.
10 Who all was working on this investigation together?

11 A. Well, the highway patrol, the Winona Police
12 Department, the Montgomery County Sheriff's Department and the
13 district attorney's office.

14 Q. Can you give the ladies and gentlemen of the jury
15 some idea of what type of steps y'all were taking to try to
16 determine who may have committed this crime as far as the
17 downtown area, the neighborhood and that area.

18 A. Okay. When we first arrived we all -- the
19 investigators and the law enforcement community talked about
20 the case.

21 The police department was canvassing a lot of the area
22 around Tardy Furniture company. They were looking in the
23 manholes and any garbage containers attempting to find a
24 weapon. We were searching ditches and areas near and around
25 Tardy Furniture company.

26 There were officers with the highway patrol that were
27 assigned to, to visit every business on Front Street to see if
28 there was any unusual activity, if anybody had seen anything
29 that morning that was going on that was unusual and attempt to

1 find anything that we could as to who had done this crime.

2 Q. Yes, sir. You stated that based upon talking to
3 folks -- well, first let me ask you this. The items that the
4 jury is passing now - the daily tally sheet, the time card and
5 the check - did you talk with Roxanne Ballard about these?

6 A. Yes, I did.

7 Q. Without going into what she told you, did she
8 explain to you what all of these items were?

9 A. Yes, she did.

10 Q. You stated that after talking with her and some
11 other folks you felt it necessary to talk with the defendant,
12 Curtis Flowers. Where was the first time that he was
13 interviewed?

14 A. It was at the Winona Police Department.

15 Q. And approximately what time was that?

16 A. It was approximately 1:30.

17 Q. So the same day, just a few hours after the bodies
18 were found, you were interviewing the defendant, Curtis
19 Flowers.

20 A. That's correct.

21 Q. Who was present for that interview?

22 A. It was myself and John Johnson.

23 Q. Okay. Was he advised of his rights on that day?

24 A. Yes, he was.

25 Q. Did he, in fact, make statements to you and John
26 Johnson that day?

27 A. Yes, he did.

28 Q. Did y'all make a record? Did y'all make notes of
29 what he told you that day?

1 A. Mr. Johnson was making notes while we were
2 interviewing him.

3 Q. Do you remember what he told you that day?

4 A. He told us what time he had got up that morning, and
5 some of his activities that morning, where he had been, what
6 he had been doing.

7 Q. In that interview what time did he tell you he got
8 up?

9 A. He told us that he got up approximately 6:30 that
10 morning, that he got up at the same time, I think, his
11 girlfriend had gotten up to go to work.

12 Q. Okay. Did he tell you what, if any, times he left
13 the house that day?

14 A. He did.

15 Q. What did he tell you?

16 A. He said he left about 9:30 and went to his sister's
17 house, who lived over on Dennis Street, I believe, which is
18 near where he was living and said he was over there for
19 approximately 15 minutes. And then he came back. And later
20 about 10:30 that morning, he went to a store called Jeff's One
21 Stop, I believe.

22 Q. All right. Did you observe his physical condition
23 that morning?

24 A. Yes, I did.

25 Q. What did you observe about him?

26 A. Well, he was dressed, had some shorts on, a shirt,
27 t-shirt type shirt, had tennis shoes on. We observed that he
28 had some slight scratches on his arm.

29 Q. Where were they on his arm?

1 A. They were up near his elbow.

2 Q. Did he have any explanation for how his arm had
3 gotten scratched?

4 A. He said he had run into something.

5 Q. Did you ask him about his working for Tardy
6 Furniture and why he was not there anymore?

7 A. Yes, I did.

8 Q. And were those questions based upon information you
9 had been furnished by Miss Roxanne Ballard?

10 A. That's correct.

11 Q. What did he tell you?

12 A. He told me that he had been employed there
13 previously. I think he had stated that his first day at work
14 was June 29 and that he had worked then. He had also worked
15 on the -- through the 3rd of July.

16 And then an incident happened that morning on the 3rd of
17 July where he was instructed to go down to the Coast to Coast
18 hardware store and pick up some batteries for a golf cart.
19 And when he loaded those batteries on the truck, that three of
20 them fell off and were damaged.

21 And he had gone back to the store to tell Miss Tardy that
22 the batteries had been damaged. And she told him to take them
23 by -- back to Coast to Coast, but if they could not make them
24 good, then it would be his responsibility. Because he should
25 have tied the batteries down on the truck.

26 Q. Okay. Did you specifically ask him any questions
27 about whether or not he was ever on the east side of Highway
28 51 that morning?

29 A. Yes, I did.

1 Q. What did he tell you?

2 A. He said that at no time was he on the east side.

3 Q. Did you have an occasion to ever check the size of
4 the tennis shoes that he had on that day?

5 A. I did later.

6 Q. What size were they?

7 A. They were 10 1/2.

8 Q. And those were Fila tennis shoes that he had on at
9 that time, I believe; is that correct?

10 MR. DEGRUY: Your Honor, I'm going to object to
11 the leading question.

12 A. I believe they were Nikes, but I don't know.

13 Q. Okay. Do you know what -- they weren't the -- they
14 weren't the Fila's; is that right?

15 A. I don't believe. I believe they were Nikes.

16 Q. Did you have an occasion that morning to perform any
17 tests on him?

18 A. We did do a gunshot residue test at the conclusion
19 of the interview.

20 Q. Why did you do that test?

21 A. Well, that's a test just to determine whether an
22 individual might possibly have fired a weapon that morning.
23 And so we asked him if he would submit to that test, and he
24 agreed to do it.

25 Q. Mr. Matthews, I'll first hand you Exhibit 125 and
26 125-A. I'll ask you to examine this and see if you can tell
27 what that is.

28 A. These are the -- these are the tennis shoes that we
29 recovered from Flowers on the 23rd of July.

1 MR. EVANS: Your Honor, I offer 125 and 125-A
2 into evidence.

3 MR. CARTER: No objection.

4 THE COURT: I'll allow them to be admitted.

5 MR. EVANS: Your Honor, to keep them straight,
6 we would ask that the shoes be marked "A" and "B", 125
7 "A" and "B". The left shoe "A" and the right shoe "B".

8 THE COURT: That will be fine.

9 (THE SACK CONTAINING THE SHOES THAT WERE TAKEN OFF CURTIS
10 FLOWERS REFERRED TO AS STATE'S EXHIBIT NUMBER 125 WAS ADMITTED
11 INTO EVIDENCE.)

12 (THE LEFT TENNIS SHOE REFERRED TO AS STATE'S EXHIBIT
13 NUMBER 125-A WAS ADMITTED INTO EVIDENCE.)

14 (THE RIGHT TENNIS SHOE REFERRED TO AS STATE'S EXHIBIT
15 NUMBER 125-B WAS ADMITTED INTO EVIDENCE.)

16 Q. (By Mr. Evans:) Mr. Matthews, the shoes that are in
17 front of you, were you able to tell by them what size shoes
18 the defendant wore?

19 A. Yes, sir. They have a tag on the inside that 10.5,
20 which would be 10 1/2.

21 Q. All right. Were you aware of bloody tennis shoe
22 tracks that had been recovered from inside the store?

23 A. Yes, sir, I was.

24 Q. Did you see any importance in knowing what size
25 shoes the defendant wore at that time?

26 A. Yes, sir, we did.

27 Q. Why was that?

28 A. Because the track that we had inside the store was
29 made by 10 1/2 size shoe.

1 Q. Did you have an occasion a couple of days -- well,
2 let me -- I am trying to get ahead of myself. I'll hand you
3 Exhibit 94 and ask if you can identify this.

4 A. That's the gunshot residue kit that we used on
5 Curtis Flowers.

6 Q. And how can you identify that as the same gunshot
7 residue kit that you used on Curtis Flowers?

8 A. That's my handwriting on the front of it.

9 MR. EVANS: Your Honor, I offer this exhibit
10 into evidence.

11 MR. CARTER: No objection.

12 THE COURT: I'll allow it to be admitted.

13 (THE GUNSHOT RESIDUE KIT PREVIOUSLY MARKED STATE'S
14 EXHIBIT NUMBER 94 FOR IDENTIFICATION WAS ADMITTED INTO
15 EVIDENCE.)

16 Q. (By Mr. Evans:) Officer Matthews, if you would,
17 again, tell the ladies and gentlemen of the jury the
18 significance of a gunshot residue test and why it is used.

19 A. Well, it's used to determine if there is gunpowder
20 residue on a subject's hand, whether they were in close
21 proximity to firing a weapon. There would be blow back on
22 your hands. If you were using a pistol or any other gun, the
23 blow back would be on your hands or inside your palms.

24 Q. Um-hum. The kit itself, I believe, has some -- a
25 form in it. Can you tell us what that form is?

26 A. Well, it's just an instruction sheet, tells you
27 exactly how to take the sample.

28 Q. All right. Are there also things that you have to
29 fill out there?

1 A. Yes, it is.

2 Q. What is that?

3 A. That's just a history sheet. And you ask the
4 suspect questions or whoever you are doing the kit on, ask
5 them certain questions as to --

6 Q. Is one of the areas that you have to cover whether
7 they are right- or left-handed?

8 A. Yes, it is.

9 Q. What is the significance of knowing whether they are
10 right- or left-handed?

11 A. Well, usually somebody that is right-handed, when
12 they fire a weapon they will fire it with their right hand.

13 Q. Can you tell the ladies and gentlemen of the jury
14 how you use that kit and specifically, how you used that kit
15 right there.

16 A. Okay. It has four little vials in it, and each vial
17 is labeled. There's right back, right palm, left back and
18 left palm. And you take these vials out. They are in a
19 little basic case, and you take them off. They have a cover
20 to them. You take that cover off.

21 And then, if you were doing the left back hand, you would
22 do that vial all around the area where you would think on the
23 back of your hand where gunpowder residue might blow back from
24 firing a weapon. You do the left back. You do the left palm.
25 You do the right back and the right palm.

26 And when you complete that thing, you put it back in that
27 vial and seal it back up and put it back in the kit.

28 Q. Is that the steps you performed on this test?

29 A. That's correct.

1 Q. What steps did you use to make sure that the test
2 was done properly and secure and not contaminated?

3 A. Well, I followed the instructions on the -- on the
4 test. Which, whoever is doing the test will wash their hands.
5 And in this case we washed the hands, and we also used some
6 rubber gloves. And I being the one that, that took -- did the
7 test myself, I did that and sealed the kit back up with all
8 the information in it.

9 Q. What did you do with that kit after you recovered
10 it?

11 A. I submitted it to the Mississippi crime lab.

12 Q. And for what tests?

13 A. For gunshot residue test.

14 Q. Officer Matthews, did you have an occasion a couple
15 of days after the murders to again interview the defendant?

16 A. Yes, I did. I interviewed him on the 18th, July 18.

17 Q. Who was present for that interview?

18 A. Lieutenant Wayne Miller.

19 Q. Did you again advise him of his rights?

20 A. Yes, I did.

21 Q. I'll hand you Exhibits 109 and 110 and ask if you
22 can identify these.

23 A. Okay. 109 is a warning and waiver of rights that I
24 gave to Curtis Flowers on July 16.

25 Q. Okay. And the other document.

26 A. That is a warning and waiver of rights that he
27 signed on the 18th of July.

28 Q. And which exhibit number is it?

29 A. It's 110.

1 Q. Do they both appear in the same condition now as
2 they were in when you advised him of his rights and filled the
3 documents out?

4 A. Yes, sir.

5 Q. Do both of them bare his signature?

6 A. Yes, sir, they do.

7 Q. I'll also hand you Exhibit 111 and ask if you can
8 identify this.

9 A. This is a copy of a tape recorded message, tape
10 recorded interview that we made with Curtis on the 18th of
11 July, 1996.

12 Q. Have you reviewed that transcript?

13 A. Yes, sir, I have.

14 Q. Other than a few minor points that could not be
15 heard on the tape, does that transcript truly and accurately
16 depict your questions and the defendant's answers?

17 A. Yes, sir.

18 MR. EVANS: Your Honor, I offer these three
19 exhibits into evidence.

20 MR. CARTER: May I see them first?

21 No objection.

22 THE COURT: I'll allow them to be admitted.

23 (THE RIGHTS WAIVER FORM DATED JULY 16, 1996, PREVIOUSLY
24 MARKED STATE'S EXHIBIT NUMBER 109 FOR IDENTIFICATION WAS
25 ADMITTED INTO EVIDENCE.)

26 (THE RIGHTS WAIVER FORM DATED JULY 18, 1996, PREVIOUSLY
27 MARKED STATE'S EXHIBIT NUMBER 110 FOR IDENTIFICATION WAS
28 ADMITTED INTO EVIDENCE.)

29 (THE TRANSCRIPT OF THE TAPED STATEMENT OF THE DEFENDANT

1 PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER 111 FOR
2 IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

3 Q. (By Mr. Evans:) Officer Matthews, if you would,
4 just read the statement that you took on the 18th, your
5 questions and the defendant's answers?

6 A. (Complied.)

7 (THE WITNESS READ THE TRANSCRIPT OF THE DEFENDANT'S
8 STATEMENT PREVIOUSLY ADMITTED INTO EVIDENCE AS STATE'S EXHIBIT
9 NUMBER 111.)

10 THE COURT: Mr. Evans, I think we are going to
11 take a 15-minute recess at this time.

12 MR. EVANS: All right.

13 (A RECESS WAS TAKEN.)

14 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
15 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

16 THE COURT: Okay. Court will come back to
17 order.

18 (THE JURY RETURNED TO THE COURTROOM.)

19 You may resume, Mr. Evans.

20 MR. EVANS: Thank you, Your Honor.

21 Q. (By Mr. Evans:) Officer Matthews, did you notice
22 any what you considered important changes in his statements
23 between the first and the second statement?

24 A. Yes, I did.

25 Q. What did you observe?

26 A. He told us in the first statement that he had gotten
27 up about 6:30 that morning, and that he had gone to his
28 sister's at about 9:30, and he had gone to Troy's Store at
29 approximately 10:30.

1 And in the second statement he told us he didn't get up
2 till around 9:30 and that he didn't go to his sister's until
3 sometime after 10:00 and that he went to the store at about
4 12:30. So it was a couple of hours difference.

5 Q. Did you think that was significant?

6 A. Yes, I did.

7 Q. Why did you think that was significant there?

8 A. Well, it had just been a couple of days since he had
9 given that statement. And I would have thought he would have
10 been able to, to tell us what he had done that day, would be
11 pretty close to the same account that he gave us two days
12 before.

13 Q. But the second statement he gave you, according to
14 that statement, he never got up out of bed until after all
15 this was over that day.

16 A. Yes, sir.

17 Q. You did have an occasion to carry him and get him to
18 show you where he said he went that morning; is that correct?

19 A. That's correct. Yes, sir.

20 Q. To his sister's house and to the store.

21 A. Yes, sir.

22 Q. Did he show you the path that he took?

23 A. Yes, sir.

24 Q. Did he at any time tell you that he had been on the
25 east side of Highway 51?

26 A. No, sir.

27 Q. Did he specifically tell you that he was never on
28 the east side of 51 that morning?

29 A. That's correct. He told us he had never been there.

1 Q. In your investigation did you have an occasion to go
2 to James Edward McChristian's house in that area?

3 A. Yes, sir.

4 Q. Angelica.

5 A. Yes, sir.

6 Q. Which side of Highway 51 is that on?

7 A. That's on the east side.

8 Q. Did you have an occasion to go to Angelica where
9 Catherine Snow saw him at the car?

10 A. I did.

11 Q. Which side of Highway 51 is that located on?

12 A. That's on the east side.

13 Q. Did you have occasion to go to Edward Lee
14 McChristian's house on Academy where him and Seals and Forrest
15 saw the defendant that morning?

16 A. Yes, sir, I have been by there.

17 Q. What side of Highway 51 is that located on?

18 A. That's also on the east side of Highway 51.

19 Q. Did you have an occasion to go by Miss Beneva
20 Henry's house where she saw him that morning?

21 A. Yes, sir. Yes, sir.

22 Q. What side of Highway 51 is that located?

23 A. That's on the east side also.

24 Q. Did you have occasion to see where Miss Mary
25 Jeanette Fleming saw him walking on, I think, it was Campbell
26 that morning?

27 A. Yes, sir.

28 Q. Which side of Highway 51 is that located on?

29 A. That's on the east side.

1 Q. Did you have an occasion to go to the store at Tardy
2 Furniture?

3 A. Yes, sir.

4 Q. Which side of Highway 51 is that located on?

5 A. That's on the east side.

6 Q. Did you have an occasion to talk to someone named
7 Porky Collins?

8 A. Yes, sir.

9 Q. Which side of Highway 51 -- and not going into what
10 he said at this point, but which side of Highway 51 did he see
11 someone at?

12 A. It was on the east side.

13 Q. Did you have an occasion to talk to Clemmie Fleming?

14 A. Yes, sir.

15 Q. Which side of Highway 51 did she see someone on that
16 morning that she identified him?

17 A. That was the east side.

18 Q. You've talked about finding other things at the
19 store. I've got a couple of exhibits I want to show you here,
20 but first I want to show you Exhibits 35 and 36 and see if you
21 can identify these.

22 A. Thirty-five is a photograph we made of, of Item 36,
23 the bank bag where we found it inside Tardy Furniture.

24 Q. And is that the same bank bag that you found inside
25 Tardy Furniture?

26 A. Yes, sir.

27 MR. EVANS: Your Honor, I offer 35 and 36 into
28 evidence.

29 MR. CARTER: No objection.

1 THE COURT: I'll allow them to be admitted.

2 (THE PHOTOGRAPH PREVIOUSLY MARKED STATE'S EXHIBIT NUMBER
3 35 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

4 (THE BROWN BAG CONTAINING THE MONEY BAG AND RECEIPT BOOK
5 PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT NUMBER 36 WERE
6 ADMITTED INTO EVIDENCE.)

7 Q. (By Mr. Evans:) Officer Matthews, I'll hand you
8 back Exhibit 35 first. And I'll ask you where you recovered
9 this money bag, Exhibit 36.

10 A. Okay. It was a table that was located on the north
11 side of the counter. It was in a -- appeared to be a table
12 that they used for, maybe, samples, carpet samples or fabric
13 samples that they used at the furniture store. And we found
14 the bag under some papers and near those samples.

15 Q. All right. I'll hand you Exhibit 36. If you would,
16 examine it and see if the contents are the same as it was when
17 you found it.

18 A. Yes, sir. It's got a deposit book in it.

19 Q. And what deposit book is that?

20 A. It was Tardy Furniture store deposit book.

21 Q. What's the last deposit shown on that book?

22 A. It was a deposit of \$1,238.86 that was deposited in
23 Union Planters Bank on July 16, 1996. Teller Number 6.

24 Q. All right. You may place that back in the bag.

25 A. (Complied.)

26 Q. All right. During your investigation at the scene,
27 was there an attempt made to determine if there was any cash
28 at the store?

29 A. Yes, sir. We looked in the cash drawer. The cash

1 drawer was open when we arrived. There was some change in the
2 cash drawer, but there was no currency.

3 Q. I show you Exhibit 29-A, and I'll ask you if this is
4 the cash drawer that you observed at the store.

5 A. Yes, sir.

6 Q. Is it in the condition now, as far as the contents,
7 that it was when you first saw it in the store?

8 A. Yes, sir.

9 Q. Did you notice anything that appeared to obviously
10 not be in the drawer?

11 A. There was no currency.

12 Q. Did you check other locations in the store to see if
13 there was any currency in the store?

14 A. Yes, sir.

15 Q. Was there any currency in the store anywhere?

16 A. No, sir.

17 Q. Did you have an occasion to go to the house that the
18 defendant was living in and assist in conducting a search?

19 A. Yes, I did.

20 Q. What, if anything, was seen during the search?

21 A. Well, one item that was recovered was approximately
22 \$235 out of a headboard of the -- in the bedroom of the
23 apartment. We also -- I know during that search we, we took
24 some clothing also.

25 Q. All right.

26 A. Yes, sir.

27 Q. Were you present when some officers went back and
28 recovered a Fila tennis shoe box?

29 A. No, sir, I was not.

1 Q. Did you have an occasion to go to a house on Poor
2 House Road that Doyle Simpson carried officers to?

3 A. Yes, sir.

4 Q. I believe it was his mother's house.

5 A. Mother's house. Yes, sir.

6 Q. Why did you go to that location?

7 A. He had reported on the same morning of the shootings
8 down at Tardy Furniture about sometime at about 11:30 that
9 morning he had reported to the Winona Police Department that
10 there was a gun missing from his car parked on the parking lot
11 at Angelica Manufacturing Company.

12 And since we had just recently had those shootings, we
13 thought that it might be significant to the case we were
14 working on. So we went down there to talk with him about
15 that.

16 Q. What caliber weapon was missing from his car?

17 A. It was a .380.

18 Q. What caliber weapon committed the murders?

19 A. .380.

20 Q. Was there any attempt made to check by any
21 scientific methods to determine if the gun stolen out of his
22 car was the murder weapon?

23 MR. CARTER: I object unless he has personal
24 knowledge.

25 THE COURT: Response.

26 MR. EVANS: I don't think he has to have
27 personal knowledge to know if any attempt was made to
28 know if that was the murder weapon.

29 THE COURT: Overrule the objection.

1 Q. (By Mr. Evans:) You may answer.

2 A. We had had some projectiles at the scene, also some
3 hulls that we -- that we picked up from the scene at Tardy
4 Furniture Store.

5 We ascertained some information from Doyle Simpson that
6 he had fired this weapon at his mother's house on Poor House
7 Road in the cedar post that was out there on that property.
8 And he said that they usually set up some cans and bottles and
9 had done some target practicing out there.

10 So we thought maybe we could get some projectiles from
11 that post and see if we could match them to the projectiles
12 that we had at the scene of the crime.

13 Q. Okay. And with that, if you were able to make that
14 determination, could that tell you if the gun that was stolen
15 was, in fact, the murder weapon?

16 A. That's correct.

17 Q. I want to hand you Exhibit 81 and ask if you can
18 identify this.

19 A. That's a projectile that we got on August 1 of 1996,
20 and that was one of the projectiles that came out of the post.

21 Q. At Doyle's house.

22 A. At Doyle Simpson's house.

23 Q. And how do you know that that is one of the
24 projectiles recovered from the post?

25 A. We recovered it on August 1 of 1996.

26 Q. All right. Does it have your initials or anything
27 on that envelope?

28 A. Yes, it does.

29 Q. Was that projectile submitted to anyone for

1 comparison?

2 A. Yes, sir. It was submitted to the crime lab, state
3 crime lab.

4 Q. All right. You've talked about also recovering
5 another projectile from the store; is that correct?

6 A. That's correct.

7 Q. I want to hand you Exhibit 80 and ask if you can
8 identify this.

9 A. This is a projectile that we recovered from a
10 mattress inside Tardy Furniture store.

11 Q. And who was present when that projectile was
12 recovered?

13 A. Myself. And Wayne Miller. John Johnson. And
14 Robert Jennings.

15 MR. EVANS: Your Honor, may I have the witness
16 step down for a minute?

17 THE COURT: You may.

18 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

19 Q. First, before I put this up here, can you tell what
20 this exhibit is, Number 95-B?

21 A. Okay.

22 Q. Just basically what it is.

23 A. Well, this is a column inside the store. And, of
24 course, the mattresses are on the floor right there next to
25 this column. We had noticed this nick mark on the -- on the
26 column. And it was in the vicinity of where Bertha Tardy's
27 body, where we found it that morning.

28 Q. Does this -- before we go further, does this
29 photograph truly and accurately depict what you saw at the

1 store?

2 A. Yes, sir.

3 MR. EVANS: Your Honor, I offer this exhibit
4 into evidence.

5 MR. CARTER: No objection.

6 THE COURT: I'll allow it to be admitted.

7 (THE ENLARGEMENT OF A PHOTOGRAPH REFERRED TO AS STATE'S
8 EXHIBIT NUMBER 95-B WAS ADMITTED INTO EVIDENCE.)

9 Q. (By Mr. Evans:) Now, if you would -- and I'd like
10 to -- I think this pointer will work. Mash the button. Just
11 step back to where the jury can see and tell us what this
12 photograph shows.

13 A. This area is located behind the counter of Tardy
14 Furniture store. This is a column inside the store. And we
15 had noticed this mark here on the wall. That's the reason
16 that we have this yardstick here to, to note that that is what
17 we were looking at in this photograph.

18 And this is a mattress there on the floor next to the
19 column. This was in the same area that we located Bertha
20 Tardy's body.

21 And after we got the autopsy reports and got to looking
22 at photographs, we thought maybe we could recover the
23 projectile. And we thought maybe this mark right here, the
24 projectile had hit this post and might possibly be in that
25 mattress. We went back in there for the purpose of trying to
26 recover that projectile.

27 Q. All right. And did you, in fact, recover something
28 from that mattress?

29 A. Yes, sir, we did.

1 MR. EVANS: Your Honor, I would offer at this
2 time Exhibits 95, 96, 97, 98 and -- well let me make
3 sure. 95-A, 96-A, 97-A, 98-A and 41-B into evidence.

4 MR. CARTER: No objection.

5 THE COURT: I'll allow them to be admitted.

6 MR. EVANS: And also, Exhibit 98-B.

7 MR. CARTER: No objection.

8 THE COURT: I'll allow it to be admitted as
9 well.

10 (THE BLOW-UP OF STATE'S EXHIBIT 41 ON A BOARD WITH FIVE
11 PHOTOGRAPHS PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT 41-B WAS
12 ADMITTED INTO EVIDENCE.)

13 (THE PHOTOGRAPH REFERRED TO AS STATE'S EXHIBIT NUMBER
14 95-A WAS ADMITTED INTO EVIDENCE.)

15 (THE BLOW-UP OF A PHOTOGRAPH REFERRED TO AS STATE'S
16 EXHIBIT 96-A WAS ADMITTED INTO EVIDENCE.)

17 (THE BLOW-UP OF A PHOTOGRAPH ON A BOARD WITH FIVE
18 PHOTOGRAPHS REFERRED TO AS STATE'S EXHIBIT NUMBER 97-A WAS
19 ADMITTED INTO EVIDENCE.)

20 (THE BLOW-UP OF A PHOTOGRAPH ON A BOARD WITH FIVE
21 PHOTOGRAPHS REFERRED TO AS STATE'S EXHIBIT 98-A WAS ADMITTED
22 INTO EVIDENCE.)

23 (THE BLOW-UP OF A PHOTOGRAPH REFERRED TO AS STATE'S
24 EXHIBIT 98-B WAS ADMITTED INTO EVIDENCE.)

25 Q. (By Mr. Evans:) Officer Matthews, before we go
26 further, you said at the time that you went back to examine
27 this mattress you had already received the autopsy report from
28 Dr. Hayne; is that correct?

29 A. That's correct.

1 Q. And as far as Miss Bertha Tardy, what did it show as
2 to whether her wound was a through and through wound or
3 whether the bullet was still in her head?

4 A. There was an entrance and exit wound.

5 Q. You knew that there was a bullet somewhere in the
6 store.

7 A. Yes, sir.

8 Q. And once you went -- what lead you to this post
9 area? Where was it in relationship to where Miss Tardy was
10 laying?

11 A. Well, she was in this general area, right back in
12 this area, back from this post before we get to that mattress.
13 The photographs we had where she was laying and this in the
14 wall, we concluded it is a good possibility it may be in that
15 mattress. (Indicated.)

16 Q. If the bullet from the angle of where she was when
17 she was shot and where the post is, if the bullet had gone
18 through her and ricocheted off the post, where did you look to
19 see if you could find it?

20 A. Well, we thought it would be right here in this
21 area, right in here. (Indicated.)

22 Q. All right. And I noticed a pen on this mattress.

23 A. Right.

24 Q. What does that signify?

25 A. That is a hole that we found in the mattress.

26 Q. All right. Was the pen already there or was it --

27 A. No. No. We put the pen there just to -- we put the
28 yardstick there and the pen there just to show so we could
29 have some reference point as to where.

1 Q. All right. But the end of this pen is where you
2 found a hole in the mattress.

3 A. Yes.

4 Q. Once you found the hole in the mattress, what did
5 y'all do next?

6 A. Well, we removed it.

7 Q. Exhibit 95-A is a smaller photograph of the one that
8 you've just described to the jury; is that correct?

9 A. That's correct.

10 Q. All right. What is Exhibit 96, 97-A? What do they
11 show?

12 A. 96 is just where we cut the mattress. We found the
13 hole. We cut the plastic away from it and, and took a knife
14 there and cut the hole and discovered the projectile. 97-A is
15 the projectile still in the -- after we peeled it back, you
16 can see it.

17 Q. All right. And 98-B. Can you tell us what this is?

18 A. Okay. That's the same -- that's the projectile also
19 in this...

20 Q. That's the same projectile that was found in the
21 mattress near Miss Bertha Tardy.

22 A. Right.

23 Q. All right. If you would, take your seat again for a
24 moment, please.

25 A. (Complied.)

26 Q. You still have that projectile in front of you.

27 A. Yes, sir.

28 Q. What was the exhibit number on it?

29 A. S-80.

1 Q. And was it carried anywhere for comparison purposes?

2 A. It was taken to the state crime lab also.

3 Q. You've talked about the search at the defendant and
4 Connie Moore's house. Did you have an occasion to check the
5 shoe sizes of a LaMarcus Moore at that time?

6 A. Right. That was the seven-year-old that lived in
7 the house that was Curtis Flowers' girlfriend. That was her
8 child. And at that time he was eleven years old, and he wore
9 a Size 7.

10 MR. EVANS: Your Honor, may I have the witness
11 step down again, please?

12 THE COURT: You may.

13 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

14 Q. If you would, take the marker -- I mean pointer.
15 Exhibit 108, which has been identified as the map that shows
16 part of the downtown area of Winona, would you show for
17 reference purposes where Highway 51 is located?

18 A. Right along here. (Indicated.)

19 Q. All right. You need to speak up just a little.

20 A. Right here. Little red mark that you can see down
21 through there, that's Highway 51.

22 Q. All right. Do you see the location on there that
23 Curtis Flowers was living?

24 A. McNutt Street. (Indicated.)

25 Q. You're pointing to McNutt Street.

26 A. Yeah.

27 Q. Is that on the east or west side of Highway 51?

28 A. That's on the west side.

29 Q. Do you see the approximate area of the two other

1 places that he told you were the only places that he went that
2 morning?

3 A. Troy's store is right along on the west side. I
4 don't know exactly which street it's on. It's right there on
5 the west side of 51.

6 Q. All right. And his sister's house, which side of 51
7 is it?

8 A. That was Dennis Street. It's right here.
9 (Indicated.)

10 Q. All right. Would you point out the approximate
11 location as best you can of where James Edward Kennedy saw him
12 walking by his house?

13 A. About that location right there. (Indicated.)

14 Q. And on which side of 51 is it?

15 A. That's on the west side.

16 Q. Which?

17 A. Correction. The east side. I'm sorry.

18 Q. And the approximate location of Angelica.

19 A. It's right here. (Indicated.)

20 Q. The approximate location of James Edward Kennedy's
21 house on Academy.

22 A. Location right in here. (Indicated.)

23 Q. All right. The approximate location of Tardy
24 Furniture.

25 A. Tardy's going to be on Front Street, right along in
26 here. (Indicated.)

27 Q. The approximate location where Porky Collins was.

28 A. Right here on the front -- in front of Tardy's.
29 (Indicated.)

1 Q. The approximate location where Clemmie Fleming was.

2 A. Okay. She was right there in front of Tardy's. She
3 was turning onto Carrollton Street right here. That runs
4 right along to Tardy Furniture. (Indicated.)

5 Q. The approximate location that Mary Jeanette Fleming
6 was.

7 A. That's on Carrollton. That direction. That's on
8 Campbell Street. That's Campbell right here. (Indicated.)

9 Q. And the approximate location where Miss Beneva Henry
10 was.

11 A. Right in this area here. On Campbell also.
12 (Indicated.)

13 Q. All right. Thank you. You may take your seat
14 again.

15 A. (Complied.)

16 MR. EVANS: Your Honor, I'll tender the witness
17 at this point.

18 CROSS-EXAMINATION BY MR. CARTER:

19 Q. Mr. Matthews.

20 A. Yes, sir.

21 Q. I believe you said earlier that you went to Miss
22 Moore's house or Curtis Flowers' house, that you went down the
23 16th; is that correct? Didn't you go to Connie Moore's house?

24 A. It wasn't the 16th.

25 Q. Okay. It was a few days after; right?

26 A. Yes, sir.

27 Q. Okay. Had you got the footprint impressions back
28 from the crime lab by that time?

29 A. No, sir. I don't believe so.

1 Q. Okay. So you didn't actually know that the shoes
2 you were looking for were Size 10 1/2, did you?

3 A. I don't know that we knew the exact size. We knew
4 what type of shoe we were looking for at that time.

5 Q. But I think you testified you were looking for a
6 10 1/2.

7 A. No. I think I said that these shoes right here were
8 a 10 1/2. That -- sometime during the investigation we
9 determined that the shoes we were looking for were a 10 1/2.

10 Q. Okay. I'm not trying to confuse you. Okay.

11 A. Okay.

12 Q. You determined that -- where did you get those shoes
13 from Mr. Flowers? I think I am mistaken. I admit it at this
14 point. I realize it. Those shoes there are 10 1/2 is what
15 you said earlier.

16 A. That's correct. And I think we got these on the
17 23rd.

18 Q. The 23rd. Okay.

19 A. No. Let me --

20 Q. Now, the 23rd --

21 A. Let me check. Yes, sir. 23rd.

22 Q. Okay. All right. I apologize for the mistake. So
23 the 23rd when you got those, had you got the report back from
24 the crime lab of the footprints?

25 A. I, I can't -- I don't remember at that time.

26 Q. Okay. But it's quite unlikely that you would have
27 gotten results from the crime lab in that quickly; isn't that
28 correct?

29 A. I can't answer that. I don't know.

1 Q. Did you make any notes when you got your report from
2 the crime lab?

3 A. They usually send a report with it, get a report to
4 us.

5 Q. Did you make any report of when you found out what
6 size the shoe prints were?

7 A. I made a mental note of it.

8 Q. But you didn't make it in writing.

9 A. I don't know whether I did or didn't.

10 Q. Okay. You --

11 A. Can't answer that.

12 Q. When did you get a subpoena to let you know you was
13 coming to court?

14 A. To this court?

15 Q. Yes. For this trial. This time.

16 A. Sometime last month, I think.

17 Q. Okay.

18 A. I don't remember the exact date.

19 Q. Several days. Probably a few weeks. Is that
20 correct?

21 A. Right.

22 Q. Did you go look at any of your notes? Did you check
23 the file that you -- that you made, your notes?

24 A. On some things. Yes, sir.

25 Q. And you didn't find anything in there that told you
26 when you learned that those prints were made by a 10 1/2, did
27 you?

28 A. I don't remember the exact date I learned it. No,
29 sir.

1 Q. And you don't recall seeing anything in your notes
2 that told you when you found out that those prints were left
3 by a 10 1/2, did you?

4 A. Well, we knew, you know, fairly close in the
5 investigation, but I don't remember exactly the day. No, sir,
6 I don't.

7 Q. Okay. Did you see -- did you see anything in your
8 notes that you reviewed recently in order to come to court and
9 testify that told you, that indicated when you learned those
10 prints were a 10 1/2, that was a 10 1/2 shoe?

11 A. I don't remember the exact date. No, sir.

12 Q. That's not my question.

13 MR. EVANS: Your Honor, he is trying to answer
14 it.

15 Q. Do you understand my question, sir?

16 A. (No response.)

17 Q. Do you understand my question?

18 A. I, I guess not.

19 Q. Okay. You knew you was coming to court today at
20 some point around this time; is that correct?

21 A. Right.

22 Q. And you just testified that you reviewed your notes.

23 A. No, I didn't testify that I reviewed them, what you
24 were talking about now. I just said I reviewed some of my
25 notes. Now, I don't know whether I reviewed the question that
26 you asked.

27 Q. Okay. That's what I'm asking. So -- and when you
28 reviewed your notes, how long ago was that?

29 A. I don't know that I made a note as to when I found

1 out that they were 10 1/2.

2 Q. Okay. You don't know that you made one. Well, do
3 you know that when you looked at some of your notes recently,
4 did you find anything that told you or indicated when you
5 learned those prints at Tardy were made by a 10 1/2?

6 A. I don't remember the exact date. No, sir, I don't.

7 Q. Did you find any note --

8 A. No.

9 Q. -- at all --

10 A. No.

11 Q. -- that indicated?

12 A. No.

13 Q. Okay. That's what I'm asking.

14 Now, it's your testimony that Mr. Flowers talked to you
15 twice. In fact, you talked to him more than twice, haven't
16 you?

17 A. Talked to him, yeah, probably more than twice. I
18 only conducted interview with him the two times.

19 Q. How many times you talk to him?

20 A. I talked to him probably on the 23rd, I think, when
21 we went over there and searched the house. And talked to him
22 all the way back from Texas when we brought him back from
23 Texas.

24 Q. So it's your testimony you only talked to him twice.

25 MR. EVANS: That's not what he testified to.

26 MR. CARTER: He said he talked to him when he
27 went to the house. He talked to him when he brought him
28 back from Texas. That's two times.

29 THE WITNESS: I may have talked to him on the

1 23rd, I said. And, of course, there was some
2 conversation on the way back from Texas back in January
3 of '97.

4 Q. Okay. And you talked to him on the 16th.

5 A. 16th. 18th. 23rd. And when we came back from
6 Texas.

7 Q. Okay. That's four.

8 On Exhibit S-95-B, who took this picture?

9 A. I don't know.

10 Q. Why was it taken?

11 A. When was it taken?

12 Q. Why was it taken? Why?

13 A. Just to note where we found that, that hole in the
14 mattress and the nick in the wall.

15 Q. Why are there no pictures of that tree out at
16 Doyle's house?

17 A. What tree are you talking about?

18 Q. There was some projectiles taken from a tree, a
19 cedar tree out at Doyle Simpson's house; is that correct?

20 A. No, sir. It was a cedar post. It wasn't a tree.

21 Q. Cedar post. Did anybody take a picture of that?

22 A. Not that I recall.

23 Q. Who is the lead on this investigation?

24 A. Well, it was pretty much a team effort.

25 Q. Who lead the team?

26 A. Well, we had investigators from the D.A.'s office.
27 We had investigators from the highway patrol. We all worked
28 together. It was -- I don't think anybody was just --

29 Q. So a team without a leader.

1 A. Well, we all worked together. I don't think anybody
2 was just the sole person in charge.

3 Q. Who made decisions?

4 A. I gathered a lot of -- you know, submitted a lot of
5 evidence and things. So...

6 Q. Who, who made assignments of what particular
7 officers should do, particular individuals should do?

8 A. We, we just talked about it. And whatever came up
9 that day, we just assigned out.

10 Q. Okay.

11 A. I don't think there was any leader making those
12 decisions. I think we all just talked about it and worked
13 pretty much together.

14 Q. Who is we?

15 A. Well, the D.A.'s office, the sheriff's office,
16 police department, highway patrol.

17 Q. When y'all had these conversations, these
18 get-togethers, there was no person in charge, no particular
19 individual.

20 A. Not that I remember.

21 Q. Okay. Now, Mr. Hargrove testified he, he called the
22 Mississippi Highway Patrol. You were the first one to get
23 there; is that correct?

24 A. That's correct. I was the first patrolman to get
25 there.

26 Q. First patrolman. All right. And when you got
27 there, was the crime scene released to you by Mr. Hargrove?

28 A. No. No, it wasn't released.

29 Q. Who was it released to?

1 A. It wasn't released to anybody. We, we kept it
2 secured until the crime lab got there. And then we, we --
3 they manned it while the time that the crime lab was there
4 also.

5 Q. When the crime lab got there, there was no one lead
6 investigation.

7 A. Well, we were all present at the scene. We --

8 Q. I understand that.

9 A. They had the scene secured, and it was very few
10 individuals that were allowed to go in there. Myself and
11 Chief Hargrove went in there one time. And we secured that
12 area, had -- the area was already secured, and we secured the
13 store. And we didn't want anybody else in there until the
14 crime lab arrived.

15 Q. Okay. And how long have you been investigator
16 before that day?

17 A. About nine years.

18 Q. Okay. And haven't you been taught that somebody
19 should make a list of the persons who come in and out of a
20 scene?

21 A. We were making some lists of --

22 Q. Have you got your list?

23 A. -- people coming in and out. No, I don't have it.

24 Q. Did you make one?

25 A. No. We didn't let anybody in so we didn't have to
26 make a list. But we did post somebody there to make sure.

27 Q. So you didn't make a list.

28 A. There was nobody else entering.

29 Q. No list was made. Is that fair to say?

1 A. Didn't have to because we didn't let anybody in.

2 Q. I didn't ask you.

3 MR. EVANS: Your Honor, he is trying --

4 Q. Was a list made or not, Mister? Was a list made of
5 the people who went in and out of the scene? Yes or no?

6 A. Well, we know that chief of police went in there.
7 We know that Sam, the man who found the bodies, went in there.
8 And we knew that the ambulance service had gone in there,
9 because one of the victims was taken to the hospital. Other
10 than that, there was nobody let in the scene until I arrived.

11 Q. Now, you got there after 11-something; right?

12 A. Yeah. Just a little bit after 11:00.

13 Q. You can't speak for who went in there before you got
14 there.

15 A. I know what -- I know what Chief Hargrove told me,
16 and the scene was secure. He was there at the front door when
17 I arrived. So I assumed that what he told me was correct.

18 Q. So you assumed. Okay. All right now.

19 THE COURT: We are going to recess for lunch at
20 this time.

21 Ladies and gentlemen, if you will step in the jury
22 room until everybody kind of clears out a little bit.

23 And of course, I'll caution you again not to talk to
24 anyone or among yourselves about the case. We will be in
25 recess until 1:00.

26 (A RECESS WAS TAKEN FOR THE NOON HOUR.)

27 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

28 CARTER AND THE DEFENDANT WERE PRESENT. PROCEEDINGS CONTINUED
29 IN OPEN COURT AS FOLLOWS:)

1 (THE JURY RETURNED TO THE COURTROOM.)

2 THE COURT: Court will come back to order.

3 Mr. Carter, you may proceed.

4 MR. CARTER: Yes, sir. Thank you.

5 CONTINUED CROSS-EXAMINATION BY MR. CARTER:

6 Q. Mr. Matthews, I am going to jump around a little
7 bit. I apologize for that. Mr. Evans jumped around some. I
8 am going to have to jump around too.

9 A. Okay.

10 Q. You made a comment that you brought Mr. Flowers
11 back. But I think the record shows that you talked to Mr.
12 Flowers at least three times before you went and brought him
13 back. Each time that you went to talk to him, he was
14 available for you to talk to; is that correct? He didn't
15 resist, did he?

16 A. I didn't understand the first part of the question.

17 Q. Okay. I apologize. Before you got -- you brought
18 Mr. Flowers back to Mississippi, you had talked to him two or
19 three times, and he willingly came forth and talked to you on
20 each occasion; is that correct?

21 A. He came on the 16th to the sheriff's office, I mean
22 police department. And he came to the police department on
23 the 18th. And then I don't remember exactly whether he was at
24 the house on the 23rd, but he could have been there then.

25 Q. Okay. He didn't resist talking to you, did he?

26 A. No. No.

27 Q. Okay. Now, as a matter of fact, he didn't even
28 resist coming back from Texas, did he?

29 A. Well, he was incarcerated at that time.

1 Q. Not for -- I think my question was did he resist
2 coming back from -- hold on a minute. He was in jail because
3 he finally got picked up for this crime; is that correct?

4 A. That's correct.

5 Q. Okay. Now, it was about six months before he ever
6 got arrested; is that correct?

7 A. Something like that. Yes, sir.

8 Q. So he wasn't arrested all those other times he
9 talked to you.

10 Now, those records that you talked about from Tardy's -
11 the check, that ledge, whatever that might be - everything you
12 knew about that was something that you were told. Everything
13 you knew about that and you testified to is hearsay; is that
14 correct?

15 A. You talking about the yellow sheet of paper?

16 Q. Yellow form. The check. All those things, those
17 written things, written documents that you got out of Tardy's
18 and talked about earlier. Your testimony about those in terms
19 of what they are is based on hearsay, something somebody told
20 you; is that correct?

21 A. Well, the check pretty much speaks for itself. Then
22 the time card was related to the -- what the defendant had
23 already told me.

24 Q. Okay. Did, did you ever work for Tardy's?

25 A. No, I never did.

26 MR. EVANS: Your Honor, may he finish his
27 answers before he is interrupted?

28 MR. CARTER: Your Honor, I did not interrupt
29 him.

1 Q. Had you finished, Mr. Andrews?

2 A. No. Matthews.

3 Q. Go ahead. Go ahead.

4 A. The, the times were, were same times that, that he
5 told us when we interviewed him.

6 And also, you know, the check was made out to him. So I
7 don't know that -- what else I could have said about them
8 other than the fact that they pretty much...

9 Now, that, that form there was -- you know, I had to get
10 a little interpretation as to what that form was all about.

11 Q. And that interpretation came from somebody else who
12 does understand how Tardy's operated; is that correct?

13 A. That's correct.

14 Q. You even took fingerprints at some point of Mr.
15 Flowers, didn't you?

16 A. Yes, sir, I did.

17 Q. And you took those so they could compare it to any
18 fingerprints that were found at Tardy's. And there weren't
19 any fingerprints found that matched Mr. Flowers from Tardy's;
20 is that correct?

21 A. No, sir.

22 Q. Now, you talk about canvassing the neighborhood.
23 Now, when you got to Tardy's, y'all had a team that didn't
24 have a leader. And you all had somebody canvas the
25 neighborhood. Since we didn't have a leader, who, who asked
26 those people to canvas the neighborhood?

27 A. I assume that, that Chief Hargrove had his police
28 officers canvassing the ditches and the areas and the garbage
29 containers and dumpsters and things of that nature.

1 Q. I notice you said you assume. Did you see anybody?

2 A. No. He told me that he had them.

3 Q. You didn't see it.

4 A. No.

5 Q. Okay.

6 A. No.

7 Q. Now, once you got there, did you have --

8 A. I had some state troopers there that were also there
9 at the scene. And I asked them if they would go to every
10 store along Front Street to see if they could come up with
11 anything that, that anybody had, had seen that morning,
12 anything that was unusual or any, any information that they
13 could gather at the time that might help us with this case.

14 Q. Okay. Who were those troopers?

15 A. One of them was Billy McClurn.

16 Q. Who was the other one?

17 A. I believe it was James Taylor Williams.

18 Q. Is that all? Just two?

19 A. I think those two I remember.

20 Q. Did you make a report of that?

21 A. They didn't report back anything.

22 Q. I'm sorry.

23 A. They didn't report back anything. They reported
24 back they didn't find anybody that --

25 Q. Was any writing made of what they reported?

26 A. I might have made a note of that. I don't know. I
27 don't remember.

28 Q. You don't have -- now, when you looked and reviewed
29 your notes recently, did you find any report of that?

1 A. No. No, sir.

2 Q. Now, you said you saw some scratches on Mr. Flowers
3 arm; is that correct?

4 A. That's correct.

5 Q. Did you take a picture of that?

6 A. I don't believe we did.

7 Q. Did you put that in any report?

8 A. Yes, sir. We put it in a report.

9 Q. Okay. You got it? May I see it?

10 A. I think it was...

11 MR. EVANS: It's on the table up there.

12 Q. Are these your notes, sir?

13 May I approach the witness, Your Honor?

14 THE COURT: You may.

15 Q. Your writing? Do you recognize that?

16 A. No. This is not my writing. This is Mr. Johnson's
17 writing.

18 Q. Thank you.

19 That is not a report you made; is that correct?

20 A. I didn't -- I didn't make the report, but I was
21 there at the interview. My initials are on it.

22 Q. Now, this gunshot residue kit.

23 A. (Handed it to Mr. Carter.)

24 Q. Thank you.

25 Now, on this gunshot residue kit, it says fill out all
26 information requested and return to kit envelope. Did you
27 fill out everything that was requested?

28 A. I filled out everything on here that I thought was
29 adequate.

1 Q. Now, I guess we can play with words here, but, but
2 it says fill out all information requested and return to kit
3 envelope. And on here, suspect's occupation. You didn't --
4 you put "NA". Does that stand for not applicable?

5 A. That's correct.

6 Q. So you are saying the occupation of the suspect
7 never matters.

8 A. He had just -- I just interviewed him, and he told
9 me he didn't have a job. I didn't think he had one.

10 Q. I thought you said he told you that he mowed yards
11 and worked on cars.

12 A. He didn't tell me in that interview. He told me in
13 the first one, in the second interview. Not in this, in the
14 first interview.

15 Q. Thank you. Now, you said when you went to the
16 house, Miss Moore, Connie Moore had a son that was, did you
17 say, 11?

18 A. Eleven.

19 Q. Okay. And you said you checked his feet.

20 A. Right.

21 Q. What did you do?

22 A. We looked at his shoes.

23 Q. Now, how many other kids does she have?

24 A. At that time she had two there living with her that
25 I know anything about.

26 Q. Does she have a older son too named LaMarcus?
27 Didn't you learn that as a result of working on this
28 investigation?

29 A. I think we did learn that, but I --

1 Q. Okay. Now, in the July 16 statement and the July --
2 and the next one, I think, was July 23. You testified - I
3 hope I'm not wrong on the date; but if I am, I apologize -
4 that he said different things on those two statements; is that
5 right?

6 A. Right. July 16 and July 18.

7 Q. Okay. Now, is it after he made those various or
8 competing statements, he wasn't arrested at that time;
9 correct?

10 A. No, sir.

11 Q. Because giving different statements or even telling
12 a lie is, is not proof that a person committed a crime; is
13 that correct?

14 A. That's correct.

15 Q. And as a matter of fact, I hate to say it, but
16 telling stories and lying in interrogation is not that
17 unusual, is it?

18 A. Well, it isn't for people who would have something
19 to hide.

20 Q. My question is you have been investigating for lots
21 of years. And haven't you found that people lie or not be
22 completely innocent -- I mean completely honest rather
23 frequently in interrogations?

24 A. I have found that more in people who are --

25 Q. Do you understand my question?

26 MR. EVANS: Your Honor, he is trying to answer,
27 if he will let him.

28 MR. CARTER: He needs to answer the question
29 that I asked him, not the one that he wants to answer.

1 MR. EVANS: He needs to be allowed to answer
2 the question, Your Honor.

3 MR. CARTER: Judge --

4 MR. EVANS: I would object --

5 COURT REPORTER: Judge.

6 THE COURT: I don't want you both arguing. He
7 has asked -- he was asking a question. He has got a
8 right to complete his answer.

9 MR. CARTER: Your Honor, will you have him
10 answer the question also though?

11 THE COURT: He was.

12 MR. EVANS: May the witness finish answering
13 the question, Your Honor, before he is interrupted again?

14 THE COURT: He may.

15 Q. (By Mr. Carter:) Mr. Matthews.

16 A. Yes, sir.

17 Q. Go ahead. You said you want to finish.

18 A. I, I've forgotten the question. Go ahead.

19 Q. You were finished.

20 Isn't it a fact that people being interrogated often lie
21 during interrogation?

22 A. Some do. Yes.

23 Q. Okay. That's my question. That's the answer.
24 Thank you.

25 Now, you didn't -- you didn't ask Mr. Flowers if he had
26 ever been on the other side of Highway 51, on the east side.
27 You asked him if he went that morning. Is that correct? He
28 went on the 16th.

29 A. I asked him on the 16th, and I asked him again on

1 the 18th when we took the statement.

2 Q. Right. If he had gone on that side on the 16th.

3 A. Right.

4 Q. Now, Mr., Mr. Andrews, I have to admit I am
5 impressed by seeing a picture of the cash register, the
6 mattress and the post, all of these things that pictures are
7 taken of.

8 And the good thing about taking pictures like this is
9 that we can see what actually happened and no one has to
10 accept our opinion or our, our judgment or our recollection
11 about what happened; is that correct?

12 A. Well, it helps sometimes.

13 Q. It helps sometimes.

14 A. Um-hum.

15 Q. Is it fair to say that documentation of what
16 happened, what occurred, what was found is, is better than
17 memory 12 years later?

18 A. Most of the time I would say yes.

19 Q. Sometimes memory is better than documents. Is that
20 what you are saying?

21 A. I would say it's a possibility.

22 Q. Okay. Now there was a reward offered in that case.
23 When did you learn there was a reward being offered?

24 A. I don't remember the exact date that, that I heard
25 that information. But it was sometime after, after the fact.

26 Q. How much was it? Do you recall that?

27 A. I don't recall.

28 Q. How did you learn it?

29 A. I think someone had called our office and, and told

1 them that they were offering a reward. And I don't remember
2 exactly who that was.

3 Q. Did you mention this reward to anybody you talked
4 to?

5 A. No.

6 Q. Did you question somebody by the name of James
7 Kennedy?

8 A. I remember -- I don't remember that, that I talked
9 to him directly. I did know that he was questioned.

10 Q. Do you remember whether you talked to somebody named
11 Catherine Snow?

12 A. Yes, I did talk to her.

13 Q. Did you talk to Patricia Hallmon?

14 A. No, I don't think I did.

15 Q. You sure?

16 A. I'm not positive, but I don't believe I did.

17 Q. Did you talk to Mary Jeanette Fleming?

18 A. Yes, I did.

19 Q. Did you talk to Clemmie Fleming?

20 A. Yes, I did.

21 Q. Who else did you talk to?

22 A. In reference to what now?

23 Q. In reference to your part in the investigation.

24 A. We talked to a number of people. I don't have a
25 list. I don't remember everyone I talked to.

26 Q. I just want to know who you talked to. You don't
27 recall.

28 A. No.

29 Q. Other than these, do you recall?

1 A. We talked to some more, but I don't remember the
2 name. I mean I don't remember right offhand who we talked to.

3 Q. Okay. You keep saying we, but I am asking you who
4 you talked to. You don't remember who you talked to?

5 A. I don't. No.

6 Q. So it's your position that you were not the chief
7 investigator, I take it.

8 A. No.

9 Q. You were not leading the team.

10 A. No.

11 Q. And is it your testimony that Mr. Wayne Miller
12 wasn't leading the team?

13 A. Well, no. I don't think we had a leader. I
14 wouldn't describe it as anybody being a leader.

15 Q. Okay. Well, now, Mr. Hargrove called Mississippi
16 Highway Patrol office; is that correct?

17 A. That's correct.

18 Q. And why did he call y'all? What is your impression
19 of why he called?

20 A. He wanted some assistance.

21 Q. Okay. Is it fair to say he wanted somebody who he
22 thought was more capable than himself to take care of the
23 investigation?

24 A. I think so.

25 Q. And at that time, based on your experience, is it
26 fair to say that you were more experienced and competent to
27 take over the investigation than him?

28 A. I, I wouldn't say that. I, I don't know. But I
29 know he wanted some assistance, and he felt comfortable with

1 us coming over here. And so I am sure that is why he called
2 us.

3 Q. Did you say at some point that there were 23 people
4 on the scene?

5 A. (No response.)

6 Q. Did you say at some point or write in some statement
7 that there were 23 people on this crime scene?

8 A. No, I didn't say that.

9 Q. I show you Exhibit S-2-A. It appears to be three
10 people talking on here. Do you know -- I've been trying to
11 figure out who those people are. Do you know? Is that some
12 of the team?

13 A. I can't tell. I don't know who they are. I can't
14 tell.

15 Q. Now, during the canvassing of the neighborhoods, did
16 you personally do any of that, the canvassing of the
17 neighborhood to find out if anybody nearby saw anything or
18 heard anything? Did you do any of that --

19 A. No.

20 Q. -- personally?

21 Now, who had the highest rank - you or Mr. Miller?

22 A. Mr. Miller.

23 Q. How many gunshot residue tests were given? Was it
24 just one, or was it more than one?

25 A. Just one.

26 Q. Who was present when you gave this one?

27 A. Mr. Johnson was present.

28 Q. Now, this check that you talked about earlier that
29 Miss Tardy had made out to Mr. Flowers, doesn't that indicate

1 that she had intended to pay him?

2 A. I don't -- I don't know.

3 Q. But it was made out to him; is that correct?

4 A. It was. Yes, sir.

5 Q. One moment.

6 Now, I believe you said earlier that - correct me if I'm
7 wrong - some money was recovered from Connie Moore's house; is
8 that correct?

9 A. That's correct.

10 Q. You sure?

11 A. Yes. I was there when they recovered it.

12 Q. And when you say recovered it, let me make sure I
13 understand what you are talking about.

14 A. Maybe I shouldn't have said recover. They found
15 some money in a headboard at her house while we were searching
16 the house.

17 Q. Did y'all take possession of the money as evidence
18 and hold on to it?

19 A. No. I think we returned it to her.

20 Q. Okay. When you say returned, does that mean you
21 returned it to her at her house? Or did you return it later
22 after it had been taken to the police department or somewhere?

23 A. I don't know. I can't answer that. I don't
24 remember.

25 Q. Did you personally make any notes of, of checking
26 anybody's shoes at Tardy's or you ever participated in that at
27 all?

28 A. Yeah. We checked shoes from the ambulance crew. We
29 also checked Mr. Sam, who found the victims. And we also

1 checked Chief Hargrove's shoes.

2 Q. Okay. Did you make a report of that?

3 A. I made some notes of it, I know.

4 Q. Okay. You got them with you?

5 A. No.

6 Q. How many times did you talk to Catherine Snow?

7 A. I know of two times. I may have talked to her more
8 than that, but I know two.

9 Q. Isn't it a fact that the first time you talked to
10 her that she did not tell you she saw Curtis Flowers? Isn't
11 that correct?

12 A. She didn't mention him by name. No, sir.

13 Q. Okay. And she talked to you a second time, and she
14 didn't mention him by name, did she?

15 A. I believe the second time that she, she came down
16 and picked him out of a line-up.

17 Q. Okay. So I take that to mean there was at least one
18 time. Do you know how many times she was talked to all
19 together?

20 A. I know of twice, that I know of. Now, she could
21 have been talked to more than that by another officer, but I
22 can only remember two times that I actually talked to her.

23 Q. And she did not say to you that I saw Curtis Flowers
24 until she looked at a photo line up; is that correct?

25 A. She told us the first time we talked to her that she
26 saw someone out there by the car. And we asked her if she
27 would look at a photo line-up, and she did. And that is when
28 she picked him out of a photo line-up.

29 Q. Okay. And that photo line-up was about a month

1 after or longer after the crime had occurred; is that correct?

2 A. I don't remember exactly how long but --

3 Q. Do you have any notes you can refer to to tell us
4 how long?

5 A. No, sir. I don't have any with me.

6 Q. Now, at the time you saw Mr. Flowers, he had on some
7 knit shorts. They were short pants. Is that correct?

8 A. That's correct.

9 Q. One moment.

10 Now, that statement that you read, that came from a taped
11 statement; is that correct?

12 A. That's correct.

13 Q. You don't have the tape, do you?

14 A. I'm sure we do.

15 Q. Okay. Now, I asked if you had it.

16 A. I think I've turned it over to the district
17 attorney's office.

18 Q. So you don't personally have it.

19 A. No, sir. No, sir.

20 Q. Now, did you do any gunshot residue tests or
21 fingerprints on any of the other suspects or any other person
22 that likely could have been involved?

23 A. I don't believe we did in this case.

24 Q. Okay. Okay. So let me just be real clear on
25 something. Mr. Flowers came in voluntarily or without force
26 when you needed to talk to him that first time; is that
27 correct?

28 A. Right.

29 Q. Okay. And although his rights were read to him --

1 is that correct?

2 A. That's correct.

3 Q. He came in a second time. And he wasn't -- the
4 second time, do you recall if y'all went and got him or if he
5 came on his own?

6 A. I think he came on his own.

7 Q. Okay. Okay. Now, Mr. Matthews, now, having been
8 investigator for several years and at this point I believe the
9 police chief for the Greenwood, what you call it, Leflore
10 County Hospital.

11 A. I'm security director.

12 Q. Security director.

13 A. Right.

14 Q. Now, as the first person who happened up on a crime
15 scene, isn't it essential that they take certain measures as
16 soon as possible?

17 A. Certain -- what kind of --

18 Q. Measures. If you are a police officer and you are
19 called, you come to a scene of a crime, such as at Tardy's.
20 The first officer that gets there, doesn't he have a
21 responsibility?

22 A. Yes, sir.

23 Q. What are those?

24 A. Well, the first thing he would do is secure the
25 crime scene.

26 Q. Okay.

27 A. And then he would see if he could find out if there
28 were any witnesses in the area, any witnesses to the crime
29 itself. And then he would canvas the neighborhood to see if

1 anybody happened to see anything that was unusual. Those
2 would be some of the first measures that he would take.

3 Q. Okay. It's important to take those as quickly as
4 you can, isn't it?

5 A. Well, yes, sir.

6 Q. Now, although we didn't have any leader of this
7 team, was there anybody on this team assigning
8 responsibilities, duties to Mr. John Johnson?

9 A. We all worked together. There wasn't any duties
10 assigned per se.

11 Q. All right. Now, this team, you had Mr. Matthews,
12 Mr. Miller, Mr. Johnson. Is Chief Hargrove on this team or
13 not?

14 A. Right.

15 Q. He is on it.

16 A. Um-hum.

17 Q. Mr. Matthews. Mr. Miller. Mr. Johnson. Chief
18 Hargrove. Who else is on this team?

19 A. We had members of the Montgomery County Sheriff's
20 Office.

21 Q. Chief Hargrove. He is on the team.

22 A. He was on there.

23 Q. Okay. Anyone else?

24 A. Well, we used some other officers for some other
25 things. One was a D.E.A. agent we used down in New Orleans.
26 Artie Hitchens.

27 Q. Okay. Now, correct me if I'm wrong, because I
28 certainly don't want to put words in your mouth. So you are
29 saying out of these, these main players, did either of you

1 have any particular role you were supposed to play or duty?
2 Were you responsible for one thing? Was Mr. Miller
3 responsible for something else? Was Chief Hargrove --

4 A. Well, every day it was something different, you
5 know. We would come in, and we would meet and decide what we
6 were going to do. Then we would either break up and go do it
7 or we would go together or whatever needed to be done.

8 There was -- we didn't say you do this, this and this.
9 We just pretty well picked out what they were going to do.
10 And we did it.

11 Q. Okay. We picked out. Who was those persons who
12 picked out what each --

13 MR. EVANS: Your Honor, if we have not covered
14 this issue 15 times.

15 THE COURT: That, that is being very
16 repetitive. He has gone over that several times. So you
17 can move on.

18 MR. CARTER: Your Honor, he never answered the
19 question.

20 THE COURT: He has answered it too. I could
21 sit here and name them, because I have heard it several
22 times.

23 Q. (By Mr. Carter:) Mr. Matthews, how many times did
24 Mr. Johnson talk to Porky Collins?

25 A. I can't answer that. I don't know. You would have
26 to ask him.

27 Q. Were you ever with him when he talked to Porky
28 Collins?

29 A. Yes, sir.

1 Q. How many times were you with him?

2 A. I know one time.

3 Q. And on that one time you were with him, was Mr.
4 Miller also with him?

5 A. Could have been. I don't know. You would have to
6 ask him.

7 Q. Make sure you understand me. On the occasion that
8 you talked -- that you and Mr. Johnson talked to Porky
9 Collins, are you saying you don't know if Mr. Miller was there
10 or not?

11 A. That's what I'm saying. Yes, sir.

12 MR. CARTER: One moment.

13 THE COURT: Sure.

14 Q. When you went to Connie Moore's house that day,
15 where exactly did you -- did you go? Once inside the house,
16 what room did you go to?

17 A. I assume you are talking about the day we searched
18 the house.

19 Q. Whatever day you went there. Did you go to Connie
20 Moore's house more than once?

21 A. I know I went there one -- we went by. The
22 defendant showed us where he lived one day. That was on the
23 18th. And I think we went by on the 23rd and did the search.

24 Q. Okay. The day that you did go inside.

25 A. Okay.

26 Q. I take it you went only once, inside the house only
27 once based on what you told me. Is that fair to say?

28 A. Yeah.

29 Q. When you went in the house, where did you go? What

1 did you do?

2 A. Well, we looked at -- we got some clothing.

3 Q. Excuse me for a minute. I want to know where you
4 went and what you did. Not the team. You. You. Mr.
5 Matthews.

6 A. I was in the living room area of the house when you
7 first walk in the front door.

8 Q. Okay. Go ahead.

9 A. That was the area that I looked at.

10 Q. That is the only place you looked.

11 A. Right.

12 Q. Okay. Now, where was this bed that the money came
13 from?

14 A. It was in the bedroom.

15 Q. So you didn't see the bed.

16 A. Yes, I did.

17 Q. You could see the bed from the living room.

18 A. Right.

19 Q. Where you were standing?

20 A. No. When they said they found the money in it, I
21 walked in there and looked. They showed me where it was. I
22 think Officer Miller found the money in the bed. Walked in
23 there and looked. He took possession of it.

24 Q. Okay. Describe the, the bed for us.

25 A. Well, it looked like a -- just a regular bed, but it
26 had a little headboard on it, on the front of it.

27 Q. Describe the headboard.

28 A. I don't remember exactly, exactly what it looked
29 like.

1 Q. Did you take a picture of it?

2 A. It may be some pictures of it. I don't know. I
3 can't remember. I hadn't --

4 Q. My question is did you take a picture.

5 A. -- been shown any pictures. I did not.

6 Q. Okay. And -- final question. Now, you -- when you
7 got ready to arrest Mr. Flowers, you knew he was in Texas;
8 right?

9 A. Yes, sir.

10 (MR. CARTER WAS SEATED AT COUNSEL TABLE.)

11 MR. CARTER: Oh, I tender. I'm sorry.

12 THE COURT: Mr. Evans.

13 MR. EVANS: Thank you, Your Honor.

14 REDIRECT EXAMINATION BY MR. EVANS:

15 Q. Officer Matthews, I'll hand you Exhibit 118 and ask
16 if you can identify that.

17 A. This is notes that were made by John Johnson when we
18 interviewed Curtis Flowers on July 16, 1996, at 1:30 at the
19 Winona Police Department.

20 Q. And does that bear your initials?

21 A. Yes, sir.

22 Q. Did you review it before you initialed it?

23 A. Yes, sir, I did.

24 Q. Is it a true and correct copy of what he told you
25 that day?

26 A. Yes, sir, it is.

27 MR. EVANS: Your Honor, I offer this into
28 evidence.

29 MR. CARTER: Let me see it a minute.

1 No objection.

2 THE COURT: I'll allow it to be admitted.

3 (THE NOTES MADE BY JOHN JOHNSON REFERRED TO AS STATE'S
4 EXHIBIT NUMBER 118 WERE ADMITTED INTO EVIDENCE.)

5 Q. (By Mr. Evans:) Officer Matthews, I'll hand you
6 back Exhibit 118 and ask you if there were, in fact, notes
7 taken that showed you where he told you or where you
8 documented that he had a scratch on his arm.

9 A. Yes. It says when asked how he hurt his arm. He
10 answered it is nothing. I ran into something.

11 Q. What does it say as far as where the scratch on his
12 arm was located?

13 A. It was on his elbow, on the inner side of his left
14 forearm.

15 Q. All right. So when opposing counsel was asking you
16 if that was documented, it was, in fact, documented, wasn't
17 it?

18 A. Yes, sir.

19 Q. You were also asked about waiting several months to
20 make an arrest. Why in this case was it important to wait for
21 a while before an arrest warrant was issued?

22 A. Well, we were trying to build evidence.

23 Q. Okay. Had everything come -- when you -- at the
24 point when you made the arrest, had the stuff finally come
25 back from the crime lab?

26 A. Yes, sir, it had.

27 Q. So you had interviews from around town, plus the
28 crime lab and things like that all at that time; is that
29 correct?

1 A. That's correct.

2 Q. You were asked if you took a gunshot residue kit
3 from anyone else. Was there any reason at all based upon the
4 investigation in this case to take gunshot residue kits from
5 anyone else that day?

6 A. No, sir.

7 Q. As far as -- and you, you had started into this, but
8 I want to go back into it, about the lies in his statements.
9 Why is it important when you are interviewing a suspect to
10 document real closely the lies that he tells you?

11 A. Well, the discrepancies in the -- in the case, you
12 can go back and, and try to pinpoint the times and the places
13 that someone is in certain times. And if they deviate from
14 that, you know, you get some, some indication that they are
15 not telling all the truth.

16 Q. And did you have numerous occasions in this
17 investigation through witnesses to show that he wasn't telling
18 the truth?

19 A. That's correct.

20 Q. Now, you have been asked numerous times about not
21 taking pictures of the post and there being pictures of
22 something else. Have you got any reason to lie to this jury
23 about where that bullet came from out of the post?

24 A. No, sir.

25 Q. Did it come from the post?

26 A. Yes, sir.

27 Q. You've also been asked about the tape. There is a
28 tape of this statement; is that correct?

29 A. Yes, sir.

1 Q. And as a matter of fact, there is a whole box of
2 tapes from interviews in this case; is that correct?

3 A. I think so.

4 Q. That have all been furnished to the defense; isn't
5 that correct?

6 A. Yes, sir.

7 MR. CARTER: Your Honor, I...

8 Q. As far as whether or not she intended to give him
9 that check, he told you his self that she wasn't going to pay
10 him, didn't he?

11 A. That's what he said in his interview. Yes, sir.

12 Q. And he told you that she terminated him.

13 A. That's correct. Let him go.

14 Q. You were also asked about officers on the scene
15 being -- should do this, this and this. Did all of the
16 officers involved in this case attempt to do everything that
17 could be done?

18 MR. CARTER: Your Honor, I object to that.

19 There is no way of knowing whether that is true or not.

20 THE COURT: I sustain. That would be
21 speculative.

22 Q. (By Mr. Evans:) Do you know of anything that was
23 not done that should have been done that morning?

24 A. No, sir.

25 Q. Or any other time during the investigation.

26 A. No, sir.

27 Q. Was the scene secured when you arrived?

28 A. It was.

29 Q. And I'm not sure if it was you so I am going to -- I

1 don't want you to answer something that you don't know. Did
2 you have anything to do with going to Greenwood and trying to
3 look at a shoe store, match some shoe tracks?

4 A. No, sir, I did not.

5 Q. At the time that y'all searched the house the
6 defendant was living in, did y'all know at that time that you
7 were looking for Fila shoes?

8 A. I believe we did have knowledge that we were looking
9 at that time.

10 MR. EVANS: Nothing further, Your Honor.

11 THE COURT: Is he excused?

12 MR. EVANS: Yes, sir.

13 THE COURT: Mr. Matthews, you may step down.

14 You are released as a witness and free to go.

15 THE WITNESS: Okay.

16 THE COURT: Who will be your next witness?

17 MR. EVANS: Joe Andrews.

18 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
19 BENCH.)

20 THE COURT: I need you to raise your right hand
21 and take the oath.

22 Do you solemnly swear or affirm the testimony you
23 give in this case will be the truth, the whole truth and
24 nothing but the truth, so help you God?

25 THE WITNESS: I do.

26 THE COURT: Come around, please, and have a
27 seat.

28 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

29 State your name, please, for the benefit of the

1 record.

2 THE WITNESS: Joe E. Andrews, Jr.

3 MR. EVANS: May I proceed, Your Honor?

4 THE COURT: You may.

5 JOE E. ANDREWS, JR., Called on behalf of the State,
6 having been duly sworn, was examined and testified as follows:

7 DIRECT EXAMINATION BY MR. EVANS:

8 Q. Good afternoon, Mr. Andrews.

9 A. Good afternoon.

10 Q. Mr. Andrews, I want to direct your attention back to
11 around '96, '97, in that area. How were you employed?

12 A. I was employed as a forensic scientist at the
13 Mississippi Crime Laboratory in Jackson.

14 Q. What was your title and duties at that time?

15 A. '96 I was employed as a forensic scientist
16 specializing in the area of trace evidence examination. Trace
17 evidence at our lab includes the analysis of such things as
18 hairs, textile fibers, paints, glass, gunshot residue and
19 footwear and tire track impressions.

20 Q. All right. And what type of training and experience
21 did you have that allowed you to perform those tests?

22 A. I graduated from the University of Mississippi with
23 a bachelor's degree in forensic science. As part of that
24 degree program, I also spent a summer internship working at
25 the Mississippi Crime Laboratory.

26 After I was employed at the crime laboratory beginning in
27 1977, I was trained at the laboratory in an apprentice-type
28 training program in the areas of trace evidence examination.
29 Over the course of my employment at the crime laboratory, I

1 also had the opportunity to attend numerous training classes
2 and seminars on different aspects of trace evidence
3 examination, including several different training classes
4 sponsored by the Federal Bureau of Investigation.

5 Q. Can you give us some approximate idea of how many
6 times you were asked to compare different types of trace
7 evidence?

8 A. Over the course of my 28 years with the crime
9 laboratory, I had the opportunity to examine thousands of
10 cases.

11 Q. And specifically, have you had the occasion to
12 conduct trace evidence in relationship to footwear impressions
13 and gunshot residue?

14 A. Yes, sir. On numerous occasions.

15 MR. EVANS: Your Honor, at this time I would
16 offer Mr. Andrews as an expert in the field of trace
17 evidence examination.

18 MR. DEGRUY: We have no questions, Your Honor.

19 THE COURT: I'll allow him to testify as an
20 expert in that field.

21 Q. (By Mr. Evans:) Mr. Andrews, I believe you had an
22 occasion to actually be involved in two types of evidence in
23 this particular case; is that correct?

24 A. Yes, sir, it is.

25 Q. First one that I want to go into is footwear
26 impressions. Did you have an occasion to do an examination
27 and some work in that area in relationship to this case?

28 A. Yes, sir. There was some photographs taken of, of
29 suspected footwear impressions taken at the crime scene that I

1 was asked to examine at the laboratory.

2 Q. All right. And I want to just kind of take it step
3 by step. The crime scene -- you did not work the crime scene.
4 The crime scene unit did that.

5 A. Yes, sir, that's correct.

6 Q. And the crime scene unit submitted photographs to
7 you; is that correct?

8 A. Yes, sir.

9 Q. All right. Once you received those photographs, can
10 you tell us basically what you saw and what you did from that
11 point?

12 A. The original crime scene photographs were regular
13 size black and white prints of suspected shoe prints taken
14 from inside the furniture store. They were submitted to the
15 laboratory.

16 And my initial examination was to examine the original or
17 standard size prints to look for anything that, that appeared
18 to be a possible shoe print impression. And I picked out
19 different photographs from all of the photographs taken to
20 have enlargements made.

21 All of the photographs that were taken of the suspected
22 shoe prints at the crime scene were taken with a scale visible
23 in the photograph. This allows us to take the negatives for
24 those pictures and have enlargements made back to what we call
25 scale. So that you, you get an enlargement that's made back
26 life size.

27 Q. All right. Basically, what were you asked to do
28 with these photographs?

29 A. The initial examination was to examine for the --

1 for the possibility of footwear impressions. And at that time
2 I was -- I had a pair of shoes that were submitted as having
3 been taken from the suspect in the case to examine to
4 determine if those shoes could have made those impressions
5 inside the store.

6 Q. Do you know what size shoes those were?

7 A. The original shoes that were submitted were a pair
8 of 10 1/2. I don't remember the brand. I can look at my
9 notes real quick.

10 Q. That's okay. All right. Those shoes did not leave
11 the impression, did they?

12 A. The original shoes that were submitted did not make
13 the impressions at the crime scene.

14 Q. All right. At that point were you able to determine
15 whether or not, in fact, these impressions were footwear
16 impressions?

17 A. They had the characteristics that would indicate
18 that, that they were partial footwear impressions.

19 Q. All right. What did you do with the -- well, you
20 say that you developed how many enlargements?

21 A. There were three different partial impressions, and
22 I made enlargements of each one of those impressions.

23 Q. All right. I want to hand you, let's see, 47, 48,
24 49 and 50. And I'll ask you to examine those, if you would,
25 please.

26 A. (Complied.)

27 Q. Can you tell us what those are?

28 A. Yes, sir. These are -- these are four enlargements
29 of the three different impressions. There are two

1 enlargements of the same impression. And then there are a
2 single enlargement of an impression marked with an "A" in the
3 photograph and an impression marked with a "C" in the
4 photograph.

5 Q. Okay. I want to show you Exhibit 79-A and ask you
6 if you had an occasion to see this exhibit.

7 A. Yes, sir, I did. This, this is a Fila shoebox that
8 was submitted to the crime laboratory as having been recovered
9 from a residence that the suspect had access to.

10 Q. All right. Did you make any determinations to see
11 if the same type of shoes that had been in that box could have
12 left the bloody impressions left at the scene?

13 A. Yes, sir, I did. You can see on the end of the box
14 there is information related to the, the style or brand of
15 shoe, including the, the serial number of the model shoe that
16 was originally contained in this particular box.

17 Based on that information, we contacted Fila, which is
18 the maker of the shoe and asked them to submit a set of
19 outsoles that would have been used on the shoes that were
20 originally packaged in that box.

21 Q. And did Fila comply with that request?

22 A. Yes, sir, they did.

23 Q. I want to hand you Exhibits 19-A and 19-B. And I'll
24 ask you if you can examine those and tell us what they are.

25 A. Yes, sir. This is a pair of outsoles, which are the
26 outer soles provided to us by Fila manufacturing that, that
27 are the same design and size as the outsoles that were used on
28 the pair of shoes that would have been sold in the box.

29 Q. So you are telling us that the soles of the shoes

1 that were in that box originally would be identical to the
2 outsoles that you have in your hand.

3 A. They would be the same size and have the same class
4 characteristics as these outsoles. Yes, sir.

5 Q. Same pattern and everything.

6 A. Same pattern and design.

7 Q. I'll also show you Exhibits 120, 123 and 121 and
8 I'll ask you if you can identify these.

9 A. Yes, sir. These are copies or these are the
10 originals. The first is a letter that I received or that we
11 received from Fila stating that the pair of out soles that
12 they have provided were the same outsoles that were used on
13 the pair of shoes that would have been originally boxed in the
14 box. The second page is a test impression that I made, that I
15 produced using these outsoles that I used in my examination
16 and comparison with photographs from the crime scene.

17 The third sheet is a design drawing of the outsole
18 pattern that was used to produce the outsoles that were
19 provided by Fila. And the fourth is a catalog page showing
20 what the upper of that particular shoe that was originally
21 packaged in the box would have looked like.

22 MR. EVANS: Your Honor, I offer these exhibits
23 into evidence at this time.

24 MR. DEGRUY: No objection.

25 THE COURT: I'll allow them to be admitted.

26 (THE LEFT OUTSOLE OF THE FILA SHOE REFERRED TO AS STATE'S
27 EXHIBIT NUMBER 119-A WAS ADMITTED INTO EVIDENCE.)

28 (THE RIGHT OUTSOLE OF THE FILA SHOE REFERRED TO AS
29 STATE'S EXHIBIT NUMBER 119-B WAS ADMITTED INTO EVIDENCE.)

1 (THE COVER LETTER DATED DECEMBER 18, 2003, FROM FILA
2 REFERRED TO AS STATE'S EXHIBIT NUMBER 120 WAS ADMITTED INTO
3 EVIDENCE.)

4 (THE FILA CATALOG SHEET REFERRED TO AS STATE'S EXHIBIT
5 NUMBER 121 WAS ADMITTED INTO EVIDENCE.)

6 (THE TRANSPARENCY WITH A SHOE IMPRESSION PREVIOUSLY
7 REFERRED TO AS STATE'S EXHIBIT NUMBER 123 WAS ADMITTED INTO
8 EVIDENCE.)

9 Q. (By Mr. Evans:) Mr. Andrews, after Fila sent you
10 the outsoles so that you would have something to compare, what
11 did you do?

12 A. As I stated earlier, I took the outsoles and
13 produced a set of test impressions. The test impressions that
14 I made were, were made using a process called inkless ink
15 where you actually put some of the solvent on the bottom of
16 the sole and press it onto a sensitized piece of paper. The
17 material on the bottom of the soles then chemically reacts
18 with the treated paper to produce a visible impression.

19 I took those paper impressions and then produced
20 transparencies so that I could actually retake the
21 transparencies and overlay them over the photographs that I
22 had in this particular case to determine if there was any
23 consistency between the test impressions and, and the question
24 impressions.

25 Q. All right. Were you able based upon that to make
26 any comparisons?

27 A. Yes, sir, I was.

28 Q. And do you remember which of the two soles you were
29 able to make some type of match from?

1 A. Yes, sir, I do.

2 Q. Which one was it?

3 A. The right shoe.

4 Q. I hand you back Exhibit 123. And I'll ask you
5 specifically what, what that document shows.

6 A. These are test impressions that I produced using the
7 right heel area of the outsoles that were submitted by Fila.
8 And this is a transparency of those two impressions showing
9 just from the midsole to the heel of that particular outsole.

10 Q. Why is it necessary to do the transparency and not
11 just look at the sole?

12 A. Well, you will do some initial comparisons just in a
13 side-by-side comparison. But when you actually start trying
14 to compare the physical size and distribution of the
15 characteristics, you can either do measurements back and
16 forth, across or if you produce a set of transparencies you
17 can actually overlay them on top of the original impression
18 and make a direct comparison from the transparency on top of
19 the impression. It allows you to look for smaller detail and
20 smaller differences that might be present between the two
21 items.

22 Q. All right. Will you produce for us the best
23 photograph enlargement that shows the details?

24 A. Just, just to clarify, if you look at the, the
25 original enlargement that is marked with the "C" in the
26 photograph, you can see --

27 Q. Excuse me.

28 May I have the witness step down, Your Honor --

29 THE COURT: You may.

1 Q. -- so we can show the jury.

2 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

3 Q. If you would, just step in front of the jury and
4 show them what, what you are talking about.

5 A. If you look at this particular photograph, which is
6 marked State's Exhibit 50 for identification, you can see a
7 partial impression in some type of material. And you can
8 actually see part of the Chevron pattern, which Chevron
9 pattern is just a series of kind of v-shapes. But there is
10 not a whole lot of detail.

11 In fact, you see lot of excessive material, which in this
12 particular case, these footwear impressions were supposedly
13 made in blood. And a lot of times if you have a person that
14 steps in a bloodstain, originally the first impression a lot
15 of times there is too much blood in the impression.

16 And as they take succeeding steps, they have a tendency
17 to wipe some of the blood away. And you get to a point where
18 you have an impression that has really good detail in it.
19 Then as they wipe more blood away from the bottom of the
20 shoes, the impression gets fainter and fainter.

21 And you have some of that with this series of
22 impressions. You have got the first impression that it's my
23 opinion has too much blood on the impression. So a lot of the
24 detail is covered up by the excessive blood. You have a
25 second impression where you can see a little more detail. You
26 can see more of the Chevron pattern. You don't -- you still
27 see some of the little clumping or too much blood present that
28 is blotting out some of the detail.

29 But this, this photograph actually shows the most detail

1 of the three impressions. And then you see this last
2 photograph, which was marked with "A". You can see the
3 impression. There is still some really good detail, but a lot
4 of the detail around the edges of the impression is starting
5 to disappear as there is less and less blood to be transferred
6 from one step to the next.

7 But all three of these impressions are consistent with
8 being made by the same shoe. They have the same physical
9 characteristics or class characteristics.

10 Now, when we talk about doing comparisons of shoe prints,
11 we are looking at two different kinds of characteristics. We
12 first of all examine for what are called class
13 characteristics. Class characteristics are the
14 characteristics that are made in -- made in the sole and
15 therefore transferred in the impression that are produced
16 during the manufacturing process.

17 The design detail of the particular outsole is part of
18 its class characteristics. The shape of individual components
19 of that design and the spacing of those components make up the
20 class characteristics. There are things that are produced
21 during the manufacturing process and would make for a group of
22 shoes or a group of items that have that exact same
23 characteristic.

24 You can get some differences in class characteristics
25 depending on how many different molds or whatever were used to
26 produce the outsoles. Most large manufacturers of shoes,
27 they'll have more than one mold that they use to make a
28 particular size shoe. It varies from manufacturer to
29 manufacturer. It varies from design to design.

1 A smaller shoe company may produce one mold and produce
2 all their outsoles from that one mold. So all of the shoes
3 that are produced in that design you would expect to have the
4 exact same class characteristics. A bigger company that is
5 producing more shoes, they may have three or four, five molds,
6 and there will be some slight differences from one mold to the
7 next. But they will have the basic same class characteristics
8 but some minor differences that, that almost fall into an
9 individual characteristic type group.

10 After you look for class characteristics, then you can
11 actually examine for the presence of individual
12 characteristics. And these are characteristics that are added
13 to the bottom of the sole through normal wear and usage.
14 These can be things like cuts or nicks or rocks or other items
15 that are picked up in the bottom of the shoe during normal
16 wear, and they tend to make that impression unique.

17 If you can find those individual characteristics in your
18 impression and find those corresponding individual
19 characteristics in a -- in a shoe, then that allows you to
20 make a positive identification of that particular shoe as
21 having produced that impression to the exclusion of all other
22 shoes in the world. That's the ultimate goal of doing a shoe
23 comparison or a footwear comparison.

24 Q. All right. In this case the actual pair of shoes
25 that came in the box were never recovered.

26 A. The actual shoes that were used to produce this
27 original impression at the crime scene have never been
28 recovered to my knowledge.

29 In this particular case the question was would a pair of

1 shoes that was originally packaged in the box that was
2 submitted to the laboratory, could a pair of shoes in that
3 size have produced the same class characteristics as exhibited
4 by these photographs.

5 Fila, by sending me a set of out soles that supposedly
6 were the exact same outsoles used in that pair of shoes,
7 provided me a source of class characteristics to use for
8 comparison. And that is what I did with these photographs and
9 the test impressions I made from those outsoles.

10 Q. If you would, take the test impressions and that
11 photograph and just show the jury basically where your
12 findings are and what you found there.

13 A. Okay. If I can use the outsole.

14 Q. Sure. Do you need me to hold anything?

15 A. No, sir. I'll start with the outsole. This is the
16 right outsole that was submitted by Fila. The most
17 distinguishing characteristics you see in the -- in the heel
18 area, you see part of the name Fila that is present in the
19 mid-sole area. You see this insert design in the bottom of
20 the shoe that kind of looks like "A" with a 2, squiggly 2 on
21 top of it.

22 Okay. By making the test impressions you see how those
23 particular designs appear in the actual test impressions.
24 You've got part of the name Fila that is visible in the middle
25 of the impression. You have got this triangle at the bottom
26 with the "A" and the little squiggly 2 on top of it. Then you
27 have the Chevron design above and below that central element.

28 If you look in the photograph, you can see the Chevron
29 pattern. You can clearly see the "A" pattern. You can see

1 part of the little squiggly 2. Part of it is blotted out by
2 an excessive amount of material, probably just a clump of
3 blood. But then you've got the general shape and outline of
4 the impression.

5 Now, even though all of the shoes that they made have the
6 same class characteristics, as you go from one size to the
7 next manufacturers will use a couple of different techniques
8 to compensate for size differences. They'll either extend the
9 impressions out further and you'll, you'll have more detail
10 out around the edge or they change the spacings of the
11 elements to fill up more of the heel area.

12 So in some cases, you know, if it was a size 14 the "A"
13 would be a bigger size, the triangular shape would be a bigger
14 size or whatever. So you use those differences in size or
15 spacings to be able to distinguish, say, the difference
16 between an impression made by a Size 9 shoe and an impression
17 made by a Size 14 shoe.

18 In this particular case you can actually take the test
19 impressions that I made from the outsole, and you can actually
20 overlay them on top of the photograph of the shoe print at the
21 scene, and you can see that all of the different details
22 pretty much line up all over the shoe. Not just the central
23 area, but even the spacings from the center of the shoe out to
24 the edge are consistent all through the design.

25 There are some slight variations but you've got to
26 consider the fact that when you make an impression in the real
27 world, almost everybody when they walk on their shoes they
28 have a certain amount of twist as they walk. So you have
29 always got a little bit of distortion in the shoe print

1 impression from that natural walking motion.

2 And you don't see any really great variations in the
3 impression. You see some slight variations around the edges,
4 which can be attributed to that walking motion.

5 Q. All right. Thank you.

6 If you would, you can take your seat up there again.

7 A. (Complied.)

8 Q. You were asked first to make a determination if it
9 was a shoe impression. Were you finally able to make that
10 determination?

11 A. Yes, sir. That impression is consistent with a
12 right heel impression.

13 Q. Okay. Is it your opinion based upon scientific
14 certainty that the bloody tennis shoe track that was left at
15 the scene is consistent with having been made by the exact
16 same type and size shoes that would have been in the box, the
17 Fila box, that was recovered at the defendant's house?

18 A. The bloody shoe impressions are consistent in all of
19 the class characteristics that are produced by the outsoles
20 that would have been used on the shoes that were originally in
21 that box.

22 Q. Were you also asked to do some comparisons on a
23 gunshot residue kit?

24 A. Yes, sir, I was.

25 Q. I hand you Exhibit 90 -- S-94 and ask you to examine
26 it, please, sir.

27 A. (Complied.)

28 Q. Can you tell us what that is?

29 A. Yes, sir. This is a standard gunshot residue

1 evidence collection kit submitted as having been taken from
2 Curtis G. Flowers. I can recognize it by the Mississippi
3 Crime Laboratory case number, exhibit number and my initials
4 that I placed on it at the time I examined it.

5 Q. Can you tell us what the purpose of that kit is?

6 A. Yes, sir. Any time you have a, a modern firearm
7 that is discharged particles are emitted from the -- from that
8 weapon, which are called gunshot residue particles. Those
9 particles can be deposited on the hand or the body of a person
10 who has discharged that weapon or has been in close proximity
11 to a weapon that has been discharged. The kits are designed
12 to collect samples from the hand of a suspect in such -- in
13 such a case.

14 This particular kit has four sample stubs, which are
15 designed to take samples from the backs and the palms of each
16 hand. When we talk about the back of the hand, we are talking
17 about the area between the, the first finger and the thumb on
18 what is called the webbing on the back of the hand and on the
19 back of the -- of the hand in general.

20 The palms, we are talking about the palmer surfaces and
21 the inside surfaces of the fingers. And we have a sample for,
22 for the back of the right hand, the palm of the right hand,
23 the back of the left hand and the palm of the left hand in
24 that kit.

25 Q. Okay. And the kit that was submitted to you, you
26 say it says on it that it came from Curtis Flowers. Does it
27 say what date and time it was obtained?

28 A. There is a information sheet inside the kit.

29 Q. Okay.

1 A. That was filled out by the officer that collected
2 the kit that indicates that the samples were taken on 7-16 of
3 '96 at 1400 hours.

4 Q. All right. Is there any significance -- if I were
5 to shoot a gun right now, is time of any significance?

6 A. Yes, sir, it is. Gunshot residue is microscopic in
7 nature and can be easily deposited on surface, but because of
8 its characteristics it can be easily removed.

9 Over the last 30 years several studies have been
10 conducted to show or to study how long gunshot residue
11 particles can remain on different types of surfaces,
12 specifically on the hands of a -- of a suspected shooter.

13 And most studies have shown that over a period of the
14 first few hours after conducting -- after having fired a
15 weapon, the number of particles that remain on the hands
16 dropped off significantly over those first few hours. And in
17 most cases, it is practically zero after four hours.

18 Q. So if this test kit was done a matter of three to
19 four hours after the shooting, the chances of recovering any
20 gunshot residue would have been slim; is that correct?

21 A. The longer -- the longer the interval of time from
22 the time of the shooting to the collection of the sample, the
23 more time goes by, the less likely you are to find in tact
24 gunshot residue particles.

25 Q. All right. Before we go any further into your
26 finding with you - and I don't want to go into a lot of
27 detail - but would you explain what gunshot residue is and why
28 it is unique?

29 A. Yes, sir. Gunshot residue that we talk about at the

1 crime laboratory is composed of particles which are emitted
2 from the weapon. When you have a modern weapon discharge the
3 firing pin strikes the primer, which has a chemical
4 composition inside the primer that causes an ignition of the
5 gunpowder inside of the cartridge, which then forces the
6 projectile out of the weapon.

7 It's these components inside the little primer cup inside
8 a modern cartridge case that produces the particles that are
9 found to be unique to gunshot residue. As, as this discharge
10 takes place this -- these elemental components of the primer
11 are turned from solids into gases that will then escape from
12 any opening in the weapon.

13 As the hot gases reach the cooler surrounding air, they
14 condense back into solid particles that are then deposited on
15 anything in close proximity to that weapon. Gunshot residue
16 kits are designed to collect samples, as I said before, from
17 the back of the hand.

18 If you hold a handgun in a normal fashion, the area you
19 would most expect for gunshot residue to be deposited on is on
20 the top of the hand on the first finger around to the thumb,
21 if you hold it in a normal fashion. So that is why we collect
22 samples from that particular area.

23 We use a technique at the Mississippi Crime Laboratory
24 called scanning electron microscopy coupled with energy
25 dispersive x-ray analysis to examine these samples. Scanning
26 electron microscopy allows you to take a sample and look at it
27 microscopically to look for particles down to as small as one
28 micron in diameter.

29 To give you an idea, an average human head hair is 80

1 microns in diameter. So you are talking about particles small
2 enough that they would be invisible to the naked eye.

3 One of the byproducts of examining a, a sample using
4 scanning electron microscopy is that when you bombard the
5 sample with a beam of electrons, you cause it to give off
6 x-rays which are characteristic of the elemental component of
7 that particular sample. In the case of gunshot residue
8 particles, the elemental components that we are specifically
9 looking for are the three elements lead, barium and antimony.

10 Particles which have the correct morphology, which in
11 this particular case are a spherical molten particle, looks
12 like a small, round bead with a kind of a molten appearance to
13 it that have the elements lead, barium and antimony inside
14 that particle have found to be unique to gunshot residue.

15 If you can find those particles with that physical
16 characteristics with that elemental composition, it allows you
17 to identify that particle as gunshot residue to the exclusion
18 of all other environmental sources.

19 Q. Is there any other way in nature that you are aware
20 of that lead, barium and antimony are ever present in that
21 spherical molten condition other than in gunshot residue?

22 A. I don't know of any other material that will produce
23 those specific particles with those very specific elemental
24 compositions other than gunshot residue.

25 Q. So if you see that you are able to 100 percent say
26 that that is gunshot residue; is that correct?

27 A. That's correct.

28 Q. Did you have an occasion after examining these four
29 vials to find gunshot residue on any of these vials?

1 A. Yes, sir, I did.

2 Q. Which one?

3 A. The samples submitted as being collected from the
4 back of the right hand. I did identify one particle of
5 gunshot residue on that sample.

6 Q. All right. And the form that you had in there, does
7 it indicate whether the defendant is right or left-handed?

8 A. Indicates that he is right-handed.

9 Q. So that would be where you would expect to find
10 gunshot residue if he had fired a gun that morning; is that
11 correct?

12 A. Yes, sir.

13 MR. EVANS: Tender the witness, Your Honor.

14 CROSS-EXAMINATION BY MR. DEGRUY:

15 Q. Good afternoon, Mr. Andrews.

16 A. Good afternoon.

17 Q. I'll start at the back and work to the front.

18 A. Okay.

19 Q. We were just talking about this one particle of, of
20 residue. One particle is -- that's the tiniest thing you
21 could possibly find; is that correct?

22 A. That's the smallest unit that I could have found
23 that I could positively identify as gunshot residue. Yes,
24 sir.

25 Q. And you don't have any idea how it got on Mr.
26 Flowers' hand.

27 A. No, sir.

28 Q. 'Cause you can get gunpowder residue. It can be
29 transferred from something. It doesn't mean you did fire a

1 gun; is that correct?

2 A. The three basic conclusions you can reach from a
3 positive gunshot residue test is either that person has
4 discharged a weapon, he has been in close proximity to a
5 discharged weapon or he has handled something that had residue
6 on its surface.

7 Q. And so if someone -- if a law enforcement officer
8 goes on to a crime scene where a firearm has been discharged,
9 particularly discharged at least five or six times, he may
10 pick up, handling evidence and such, wouldn't be -- it
11 wouldn't surprise you that he would pick up particles of
12 gunshot residue.

13 A. No, sir.

14 Q. And, and if someone who then came in contact with
15 him could get gunpowder residue, gunshot residue from that
16 person.

17 A. That's possible. Yes, sir.

18 Q. These, these photographs that you received of what
19 was suspected to be footwear impressions, when did you get
20 those photographs?

21 A. They were submitted to the laboratory in July.
22 Basically, our crime scene unit went out to the crime scene,
23 and when they got back, once they got all the evidence
24 submitted into the laboratory, I began my examinations on
25 those particular photographs.

26 Q. I know you got your report right in front of you.
27 Would it be July 26 that you received the photographs?

28 A. I actually started my examinations on the 26th.
29 Yes, sir.

1 Q. And when you -- and then you sent the photographs
2 out to be enlarged.

3 A. Yes, sir, that's correct.

4 Q. Now, at this point, on the 26th, did you also
5 receive a pair of Nike tennis shoes?

6 A. Yes, sir.

7 Q. Okay. And you compared those.

8 A. Yes, sir.

9 Q. You were asked to do that by the highway patrol, I
10 guess, is who was --

11 A. Yes, sir. I believe they were the lead
12 investigative unit in this case.

13 Q. And on the 26th you could tell that it wasn't the
14 Nikes making that comparison? Or did you wait until you got
15 the enlargements to make that decision?

16 A. I could tell from the original prints that the, the
17 Nikes have a different outsole design on the bottom of the
18 shoes and could not have produced the impressions in the
19 photographs.

20 Q. But you said, I think, that looking at just the
21 prints, you could -- it looked like a footwear impression to
22 you.

23 A. Yes, sir.

24 Q. But at that point you couldn't tell what kind of
25 shoe you were looking for.

26 A. No, sir.

27 Q. And you didn't -- you didn't make any determination
28 of what kind of shoe you were looking for until after you
29 received the outsoles from Fila.

1 A. Actually, once the shoe box was submitted and the
2 question was could the pair of shoes that were originally in
3 the shoebox have made that impression, then we started looking
4 into the design of the shoes that would have been contained in
5 the shoebox.

6 Q. And that was -- that would be August 14 that that
7 was submitted to you.

8 A. Somewhere in there. Yes, sir.

9 Q. And you mentioned that large manufacturers use
10 multiple molds. Is Fila considered a large manufacturer?

11 A. Yes, sir.

12 Q. Okay. So they used multiple molds to make these
13 shoes.

14 A. More than likely, yes, sir. Any of the -- any of
15 the manufacturers that produce large quantities of a
16 particular shoe will normally have more than one set of molds
17 to produce the outsoles just to mainly keep up with
18 production. If they were having to depend on one, one set of
19 molds to produce all the outsoles for a million pair of shoes
20 it would slow down the process.

21 Q. And, and that causes some variance. A size 10, I
22 think we probably all experienced this. Sometimes I wear an
23 8, and sometimes I wear an 8 1/2. There is some variance in
24 the size of the shoe, of the particular outsole. A 10 1/2 may
25 actually be the same size as a 10 or may be the same size as
26 an 11.

27 A. According to Fila -- and Fila is one of the
28 companies I have the most information about based mainly on
29 the research I did for this case. According to Fila, their

1 shoes average 3/16 of an inch difference for each half size.
2 So a 10 -- the difference between a 10 and a 10 1/2 outsole
3 will be on average 3/16 of an inch. Their quality control
4 allows them to have up to a 3/16 of an inch variation from one
5 half size to the next.

6 So it is possible that a -- one pair of Size 10 1/2's may
7 be actually the same size as a 10. And one size of a 10 1/2
8 may be actually the same size as an 11. So you have to take
9 into consideration that a half size may go a half size either
10 way over what the stated size is. Did that answer your --

11 Q. Yes. I was maybe being too simple. Thank you for
12 that explanation.

13 And then you also mentioned that in the picture you saw.
14 The picture of the impression they're, I think you called,
15 variations and distortions.

16 A. Yes, sir.

17 Q. And that's, that's -- you said it could be because
18 of just how someone steps.

19 A. It can be how they step. It can be the surface that
20 they're stepping upon. It can be the material that the
21 impression is being left in. All of those things will, will
22 cause some variation. It can be how they are stepping. A
23 person running will leave a slightly different impression from
24 someone who very carefully steps.

25 So you will get a certain amount of what they call
26 slippage in the impression, which is kind of a squiggle in the
27 impression.

28 Q. That has some distortion in determining the exact
29 size of the shoe.

1 A. That will cause some, some differences in
2 determining exact size of the impression.

3 Q. Now, you mentioned that Fila is a large
4 manufacturer. And we have already had testimony that this was
5 a very popular shoe, this Fila Grant Hill. How many Fila
6 Grant Hills were sold in the North Mississippi market?

7 A. I have no idea North Mississippi. Fila gave me
8 world wide distribution numbers. I have no idea what it was
9 broken down to Mississippi or North Mississippi.

10 Q. Okay. What was the total?

11 A. This particular outsole, according to Fila, was used
12 on the Grant Hill II, which is the model shoe originally
13 submitted in the shoebox, was produced in 15 different upper
14 styles. The same outsole was used on 15 different upper style
15 Grant Hill II's. And the production dates ranged anywhere
16 from June of 1995 up until February of '96.

17 During that period of time they shipped 1,927,447 pairs
18 of Grant Hill II's in those 15 styles from their manufacturing
19 plants.

20 Q. Okay. You had mentioned this photograph, and it's
21 ruled. Mean it's just got a ruler in it.

22 A. Yes, sir.

23 Q. Takes more than just placing a ruler in there. You
24 still have to -- the photograph has to be taken at, at a
25 proper angle, proper lighting.

26 A. Yes, sir.

27 Q. Isn't that correct?

28 A. To produce a scaled impression, you're supposed to
29 take the photograph at directly 90 degrees looking straight

1 down on the impression with a scale that can be reproduced
2 present in the photograph. And then that allows you to take
3 that negative into the dark room, reproduce that image back to
4 scale.

5 Q. So you need not only the scale, you need the proper
6 angle of the camera and proper lighting.

7 A. Yes, sir.

8 Q. And I know you were at the lab. You didn't see the
9 prints live. You didn't take the pictures.

10 A. That's correct.

11 Q. You, you just assumed that based on Melissa Schoene,
12 who is the one that took the pictures; is that correct?

13 A. Melissa Schoene, in addition to her crime scene
14 duties, also worked in the trace evidence section of the lab.
15 And I trained her to do footwear impressions. So I know she
16 knew how to take photographs.

17 Q. But in this case, we have to take her word on how
18 she did.

19 A. I wasn't present and saw her do it, but I know she
20 received the training in how to do it correctly.

21 Q. When you made this, this comparison of the out wear,
22 out sole with the impressions, you then submitted a report,
23 sent a report to Jack Matthews at the highway patrol.

24 A. Yes, sir, that's correct.

25 Q. And that was February 6, 1997.

26 BAILIFF: Your Honor, we've got a juror that
27 needs a break.

28 THE COURT: We will take a 15-minute recess at
29 this time.

1 (A BREAK WAS TAKEN.)

2 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
3 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
4 PROCEEDINGS WERE AS FOLLOWS:)

5 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.
6 CARTER APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE
7 THE HEARING OF THE COURTROOM AUDIENCE. THE BENCH CONFERENCE
8 WAS REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

9 (THE JURY RETURNED TO THE COURTROOM.)

10 THE COURT: Court will come back to order.

11 You may proceed.

12 Q. (By Mr. DeGruy:) Mr. Andrews, I just have one area
13 of clarification I'd like to get into. You had mentioned --
14 you called them wear patterns. You said that is what gives
15 something an individual characteristic.

16 A. Yes, sir.

17 Q. Is this kind of what you are talking about, like
18 some people walk on the side of their feet or people walk in
19 different ways and that their shoes will develop individual
20 characteristics to them?

21 A. Yes, sir, that's correct. That is a very good
22 explanation. Two people can wear the exact same size and type
23 of shoes and just through normal wear the shoes will develop
24 wear characteristics in the pattern that make them unique to
25 that pair of shoes because of the way that person walked in
26 them.

27 Q. For instance, the older pair or the Nike shoes you
28 looked at, they have a wear pattern in them.

29 A. Yes, sir. They have a certain amount of wear that

1 would be unique to the person that wore those shoes.

2 Q. Now, these -- the imprints, the pictures that you
3 were looking at from the scene, they did not -- there was
4 nothing that obviously a wear pattern on those shoes.

5 A. It's next to impossible to look at an impression and
6 determine exactly what is a wear pattern or an individual
7 characteristic without seeing it first on a pair of shoes.
8 You actually have to see the wear on the bottom of the pair of
9 shoes or the cut or the nick on the bottom of the pair of
10 shoes in order to determine that it is something that would be
11 considered individual.

12 Q. But you would see that in the imprint.

13 A. Yes, sir.

14 Q. Also --

15 A. What -- one of the things you look at, you look at
16 the sole of the shoe to determine if it has any cuts or nicks
17 that could be individual. Then you make a test impression to
18 see if those cuts or nicks are produced in the impression.

19 If they are reproducible in the impression, then you can
20 consider those as individual characteristics that you could
21 expect to find in any impression made by that shoe. So you
22 want to see what, what that actually reproduces in the
23 impression as.

24 Q. If you had the imprint and not the shoe, you could
25 look at an imprint and see if there were wear patterns in the
26 shoe that caused the imprint, would you know it?

27 A. If they are significant, yes, sir, you could.

28 MR. DEGREY: That's all I have, Your Honor.

29 THE COURT: Redirect.

1 MR. EVANS: Thank you, Your Honor.

2 REDIRECT EXAMINATION BY MR. EVANS:

3 Q. You were asked about one particle being the smallest
4 number you could find. One is the smallest number that we
5 know of, isn't it?

6 A. Yes, sir. That is the smallest unit of gunshot
7 residue that can be identified.

8 Q. But one particle is enough to be 100 percent
9 positive that it's gunshot residue, isn't it?

10 A. Using the technique that we utilize at the
11 Mississippi Crime Laboratory, one particle can be identified
12 positively as gunshot residue.

13 Q. And did you identify the particle on the right back
14 of the defendant's hand as being 100 percent gunshot residue?

15 A. Yes, sir, I did.

16 Q. Now, according to the statistics that Fila sent
17 you -- and I believe they were in the group of papers that you
18 had up there; is that correct?

19 A. Yes, sir.

20 Q. According to them, there is 3/16 of an inch
21 difference between half sizes.

22 A. That is correct. Yes, sir.

23 Q. And in this case you compared the 10 1/2 that Fila
24 sent you with the track at the store; is that correct?

25 A. That is correct. Yes, sir.

26 Q. Did you notice any 3/16 of an inch difference
27 between those?

28 A. No, sir.

29 Q. So what you are telling us, that the bloody shoe

1 track at the store was 100 percent consistent with having been
2 made by the type and size shoes that would have been in the
3 Fila box that was recovered from Curtis Flowers' house.

4 A. They are consistent with having been produced by
5 a -- by a pair of outsoles consistent with outsoles that were
6 submitted to me for examination, which are 10 1/2's.

7 Q. Now, you have -- I am not going to go into a lot of
8 detail, but you had made other attempts to try to determine if
9 they were made by Fila shoes; is that correct?

10 A. Yes, sir.

11 Q. And in fact, before the box was -- arrived down
12 there, I believe you were aware that some of the officers had
13 obtained a type of Fila shoe to look at; is that right?

14 A. One of the officers submitted a pair of shoes that,
15 it's my understanding, he went and bought and submitted those
16 shoes to the laboratory that had a design that he understood
17 was supposed to be consistent with the type of design that was
18 originally in that box.

19 Q. But it was not a Grant Hill Fila II; is that right?

20 A. It was a Grant Hill II, but it was one of the
21 different upper models. It was a different model number of
22 the same type of shoe.

23 Q. So because of that it was necessary for you to
24 actually contact Fila and get the exact type of outsole.

25 A. I was requested to contact Fila and get them to
26 submit a pair of outsoles that they said were used on that
27 pair of shoes in that box.

28 Q. And that's what you did.

29 A. Yes, sir.

1 MR. EVANS: Nothing further, Your Honor.

2 THE COURT: Is he finally excused?

3 MR. EVANS: Yes, sir.

4 THE COURT: Mr. Andrews, you may step down.
5 You are free to go.

6 THE WITNESS: Thank you.

7 THE COURT: Who would be the State's next
8 witness?

9 MR. EVANS: Doyle Simpson.

10 (THE WITNESS ENTERED THE COURTROOM.)

11 THE COURT: If you will, come around, face the
12 bench, raise your right hand and take the oath.

13 (THE WITNESS APPROACHED THE BENCH.)

14 Do you solemnly swear or affirm that the testimony
15 you give in this case will be the truth, the whole truth
16 and nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE COURT: Come around, please, and have a
19 seat.

20 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

21 THE COURT: State your name, please.

22 THE WITNESS: Doyle Simpson.

23 THE COURT: You may proceed.

24 DOYLE SIMPSON, Called on behalf of the State, having been
25 duly sworn, was examined and testified as follows:

26 DIRECT EXAMINATION BY MR. EVANS:

27 Q. Good evening, Mr. Simpson.

28 Mr. Simpson, I want to direct you back to 1996, July 16,
29 and I'll ask you where you worked at that time.

1 A. Angelica.

2 Q. All right. Now, that does not amplify your voice so
3 just speak loud. Okay?

4 A. Angelica.

5 Q. Is that here in Winona?

6 A. Yes, sir.

7 Q. At that time did you know a person by the name of
8 Curtis Flowers?

9 A. Yes, I did.

10 Q. How did you know him?

11 A. He was my nephew. I called him my nephew.

12 Q. You called him your nephew.

13 A. Yes, sir.

14 Q. What was the actual relationship?

15 A. We hung out together.

16 Q. Okay. And why did you call him your nephew? What
17 was the family relationship?

18 A. All his -- all his uncles are my brothers.

19 Q. All of his uncles are your brothers.

20 A. Half, half brothers.

21 Q. Half brothers.

22 A. Yes, sir.

23 Q. And y'all hung out together.

24 A. Yes, sir.

25 Q. So you knew him well.

26 A. Yes, sir.

27 Q. On the morning of the murders -- well, first, what
28 hours were you working at Angelica at that time?

29 A. From 6:30 to 10:30.

1 Q. On the morning of the murders, what time did you go
2 to work?

3 A. 6:30 that morning.

4 Q. Okay. What kind of car did you have?

5 A. Pontiac Phoenix.

6 Q. And where did you park that car that morning?

7 A. On the front row --

8 Q. Okay.

9 A. -- of the parking lot.

10 Q. Was there anything located in the glove compartment
11 of your car when you parked it there?

12 A. Yes, sir.

13 Q. What was it?

14 A. Had, had a pistol in the glove compartment.

15 Q. And what kind of pistol was it?

16 A. .380.

17 Q. Is that an automatic?

18 A. Automatic.

19 Q. What were your duties there at Angelica?

20 A. I was the janitor.

21 Q. Did the defendant know, Curtis Flowers, know that
22 you had that gun?

23 A. Yes, sir.

24 Q. Had he seen it in your car before?

25 A. Yes, sir.

26 Q. Tell us a little bit about what you did that morning
27 from the time you got to work.

28 A. The usual thing. Just clean up.

29 Q. What area of the plant did you work?

1 A. The whole plant.

2 Q. The whole plant.

3 A. Yes, sir.

4 Q. Who did you work with?

5 A. Randy Keenum. Johnny Butts. And Kenny Johnson.

6 Q. Did you have an occasion to walk back out to your

7 car that morning?

8 A. Yes, sir, I did.

9 Q. What was the first time that you walked back out to

10 your car?

11 A. I think about 9:15, because I went on break at 9:20.

12 Q. Why did you go out to your car at that time?

13 A. To get my breakfast.

14 Q. Did you notice your glove compartment broken into at

15 that time?

16 A. No, I did not.

17 Q. Did you pay any attention to it?

18 A. No, I did not.

19 Q. Okay. When you went out to get your breakfast out

20 of the vehicle, was it locked or unlocked?

21 A. It was locked.

22 Q. The car or the glove box?

23 A. No. The glove compartment was locked. The car

24 wasn't locked.

25 Q. Okay. The car was unlocked, but the glove

26 compartment was locked.

27 A. Yes, sir.

28 Q. Did you eat your breakfast in the car, or did you go

29 back inside?

1 A. I came back inside. And when the buzzer had warmed
2 it up, and stayed on break from 9:20 to 9:40.

3 Q. All right. So you were on break for 20 minutes.

4 A. Yes, sir.

5 Q. Did you have an occasion to go back out to your car
6 that morning?

7 A. Yes, sir, I did.

8 Q. What time was that?

9 A. I think around about 10:20, about 10:25. Something
10 like that. About 10:25. I let my windows down.

11 Q. Why did you do that?

12 A. Because it was hot that day. I was letting the
13 windows down, 'cause I leave at 10:30.

14 Q. Was that normal for you to go out and let your
15 windows down?

16 A. Oh, yes, sir.

17 Q. When you let your windows down, did you notice
18 anything about the car at that time?

19 A. No, I did not.

20 Q. All right. What did you do after that?

21 A. I came back inside. Then after I taken the money
22 for -- to get some lunch, pick up lunch.

23 Q. All right. You say you started taking up money.
24 Did, did you normally go pick up lunch for different people?

25 A. Yes, sir, I did.

26 Q. That particular morning do you remember about how
27 many people gave you money and orders to go pick up their
28 lunch?

29 A. Might have been about seven or eight. Something

1 like that. A little more, more.

2 Q. All right. Before we get into where you went, where
3 were the places that they had asked you to pick up lunch for
4 them?

5 A. At the chicken place on 407.

6 Q. Is that Fuzzy's Chicken.

7 A. I think it was Fuzzy's Chicken. Right.

8 Q. All right. Where else?

9 A. And at the City Cafe on 51.

10 Q. All right. After you got their money to go pick up
11 the lunches, what did you do?

12 A. I went back -- I went back to get in my car to go
13 get the lunch. That is when I got in the car. I sat down. I
14 closed my -- I closed the door. I shut my door real hard,
15 because it is hard to close on the driver's side. That is
16 when my pocket fell open.

17 Q. What pocket?

18 A. Car pocket.

19 Q. Glove compartment.

20 A. Glove compartment. That when I found out somebody
21 had broke in my car.

22 Q. All right. You noticed at that point that somebody
23 had broken in your car.

24 A. Yes, sir.

25 Q. Was anything missing?

26 A. My gun.

27 Q. Did you notice anything about the glove compartment?

28 A. Yeah. Somebody had, had -- somebody had broke it,
29 pried it open.

1 MR. EVANS: Your Honor, may I have the witness
2 step down?

3 THE COURT: Mr. Simpson, you may step down.

4 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

5 Q. Mr. Simpson, I'm going to show you Exhibits 99-A,
6 100-A and 101-A. If you would stand, just stand over here to
7 the side so that everybody can see.

8 A. (Complied.)

9 Q. Do you recognize that car?

10 A. That's mine.

11 Q. Can you point out on there where you noticed that
12 your glove box had been pried open?

13 A. Right there. (Indicated.)

14 Q. All right. You can have a seat again.

15 A. (Complied.)

16 Q. What did you do after you found out that your glove
17 compartment had been pried open and your gun was missing?

18 A. I went told the plant manager.

19 Q. Who is the plant manager?

20 A. Her name is Dorothy, Dorothy Ricks. Ricks.
21 Something like that.

22 Q. All right. After you had reported it to her, what
23 did you do next?

24 A. I went, went to pick up the lunch.

25 Q. All right. Where did you go specifically from there
26 to pick up the lunches?

27 A. I left, left the parking lot. Went up Church
28 Street, down 407 to the chicken place. Placed order in there.
29 I left there. Then went up 51 North to the City Cafe.

1 Q. Do you know about how long it took you? And I'm not
2 trying to get exactly, but about how long it took you to go
3 get the lunches?

4 A. About 30 minutes, I guess.

5 Q. Okay. After you picked up the lunches, what did you
6 do?

7 A. Came back to Angelica.

8 Q. Were there any officers there at that time?

9 A. Yes, sir.

10 Q. So the plant manager had reported what you told her.

11 A. I guess so. I think that's who called.

12 Q. Who did you talk to?

13 A. Officer Thornburg.

14 Q. Okay. And did you report to him that your .380 had
15 been stolen?

16 A. Somebody had broke in the car. Right.

17 Q. Did he come back to you at a different time, him or
18 other officers, and talk to you about where the gun had come
19 from?

20 A. No, sir. It was, I think, about -- yeah, about a
21 day later, two days later he came back and asked me where the
22 gun came from.

23 Q. A few days later. Is that what you said?

24 A. I think something like that.

25 Q. Okay. Between the time you first reported the gun
26 stolen and them coming back, had you talked to anyone that had
27 seen someone around your car?

28 A. Yes, sir. Not the day. But the next day.

29 Q. Okay. The day after it was stolen you talked to

1 someone.

2 A. Yes, sir.

3 Q. Who was that?

4 A. Catherine Snow.

5 Q. Did Catherine Snow tell you who she had seen by your
6 car?

7 A. No. She didn't call no name that day.

8 Q. When did she tell you?

9 A. I think about a couple days later.

10 Q. All right. When you -- when the officers a few days
11 later asked you where your gun came from, you didn't tell them
12 the truth at first, did you?

13 A. I lied.

14 Q. Where did you tell them it came from?

15 A. I told them it come from my brother, who stay in New
16 Orleans.

17 Q. Why did you not tell them the truth about where it
18 came from?

19 A. Because I was trying to protect Curtis.

20 Q. You were trying to protect Curtis.

21 A. Yes, sir.

22 Q. What did you think you were protecting him from?

23 A. Because after I found he had been by my car.

24 Q. Okay. You knew about the murders.

25 A. No. I didn't know, not at that time.

26 Q. Now, when you talked to the officer about where the
27 gun came from, you knew about them then, didn't you?

28 A. Yes. Yes, sir.

29 Q. Was that part of why you were trying to protect

1 Curtis?

2 A. Yes, sir. That is why I lied about the gun.

3 Q. Did you later help the officers by taking them to
4 where you had test fired the gun?

5 A. Yes, sir.

6 Q. Where did you take them?

7 A. To my mom house.

8 Q. All right. And tell the ladies and gentlemen of the
9 jury what you had done, where you had test fired it and how
10 you test fired it.

11 A. We target practicing in the backyard.

12 Q. Who was target practicing back there?

13 A. Me and my brother and them.

14 Q. Okay. And was one of the things that y'all had shot
15 into with that gun a cedar post?

16 A. Yes, sir. We had shot in a post behind the house.

17 Q. And I believe two different times you carried
18 different officers out there and allowed them to dig bullets
19 out of that post; is that right?

20 A. Yes, sir, I sure did.

21 Q. Officer Thornburg. And then Officer Thornburg and
22 Jack Matthews.

23 A. Yes, sir. And State Trooper Taylor.

24 MR. EVANS: Okay. Have the Court's indulgence
25 for just a minute?

26 THE COURT: Sure.

27 Q. (By Mr. Evans:) Doyle, your .380 automatic that was
28 stolen out of your car, was it loaded at the time it was
29 stolen?

1 A. Yes, sir. It was loaded.

2 Q. Okay. And what type of ammunition did it have in
3 it, best you can remember?

4 A. Well, it had two different kinds. It has regular
5 brown kind, and it had the silver kind.

6 Q. Do you know about how many times the defendant had
7 seen this gun in your car?

8 A. No, sir. I don't know how many times.

9 Q. All right. The person that you've identified as
10 Curtis Flowers that you say you were trying to protect in this
11 case, do you see him in the courtroom?

12 A. Yes, sir.

13 Q. Would you point to him and identify him, please?

14 A. Right there. (Pointed.)

15 MR. EVANS: May the record reflect that he has
16 identified the defendant in this cause, Your Honor?

17 THE COURT: I'll let it so reflect.

18 MR. EVANS: I tender the witness.

19 MR. DEGRUY: Thank you, Your Honor.

20 CROSS-EXAMINATION BY MR. DEGRUY:

21 Q. Mr. Simpson, how, how long had you owned this gun?

22 A. I guess about a few -- a couple of months. Six
23 months. I don't know. Six months. Something like that.
24 Might have been longer.

25 Q. Where did you usually keep it?

26 A. In the -- in the glove compartment.

27 Q. You testified previously --

28 A. And sometimes -- well, sometimes it -- well, it
29 usually be in my glove compartment. Unless I get home, I put

1 it in my mom's house.

2 Q. When you get home, you put it in your mother's
3 house.

4 A. Yes, sir.

5 Q. Where in your mother's house did you keep it?

6 A. Under my mattress.

7 Q. Okay. And was that your usual place for keeping the
8 gun?

9 A. Sir.

10 Q. Was that your usual place for --

11 A. Yes, sir. Under the mattress.

12 Q. And when did you put it in the car?

13 A. I put it in there that, what's that, Monday.

14 Q. That would have been July 15.

15 A. No. What the day? The day before they stole it.

16 Q. Okay. So the day before.

17 A. The day before it came up missing.

18 Q. The day before it came up missing is the day you put
19 it in your car. Why did you put it in the car that day?

20 A. I, I took it down to Dave's to get it cleaned.

21 Q. Okay. When did you load it?

22 A. All he did was clean it. I just put the magazine
23 back in there.

24 Q. Okay.

25 A. That's what I did.

26 Q. So you took it down there. He cleaned it. I guess
27 you popped the magazine out. He cleaned it for you. You put
28 the magazine back in.

29 A. Yes, sir.

1 Q. And then you went -- where did you go after you left
2 Dave's house?

3 A. I went by my girlfriend that, that night.

4 Q. Did you stay there, or did you go back to your
5 mother's?

6 A. I stayed there, stayed with her.

7 Q. Are you sure you didn't take the car back to your
8 mother's first?

9 A. That is where I left the car that night.

10 Q. Okay.

11 A. Yes, sir.

12 Q. You went back to your mother's house first. First.
13 Right? Parked the car in the yard.

14 A. She was there when I got there.

15 Q. She being your girlfriend.

16 A. Right.

17 Q. Then you left with her.

18 A. Left with her.

19 Q. And because she was there, is that why you didn't
20 bring it back into the house?

21 A. That's -- well, yeah. Right. I just lock the glove
22 compartment and put -- and got in the car with her.

23 Q. So it stayed in the car, because you just never went
24 back in your mother's.

25 A. That's right. Left it in there all night.

26 Q. And on the -- on that Monday night, you didn't see
27 Curtis at all.

28 A. No, sir.

29 Q. How many people knew you had this gun?

1 A. Quite a few. Most -- mostly relatives. Good
2 friends.

3 Q. Now, you told us you were at work on that Tuesday
4 morning. You went out to the car at least three times.

5 A. Yeah. Twice I mean.

6 Q. You went out --

7 A. Before break. Yeah. I went out. Then I went out
8 and left. That's three. That's when I went the last time. I
9 went before break. Then I went out there to let my window
10 down before I went to get the lunch, before I went to punch
11 out to go get the lunch.

12 Q. So you went out there, I think you said, about 9: --

13 A. Fifteen. Yes, sir.

14 Q. -- 15. You opened the door. You got your breakfast
15 out.

16 A. Right.

17 Q. You closed the door.

18 A. Right.

19 Q. Then you went back out at 10:25.

20 A. Something like that. To let --

21 Q. You opened the door. You shut the door.

22 A. On the driver's side. To let --

23 Q. Let the window down.

24 A. Let the window down. And went back --

25 Q. And you shut the door.

26 A. Shut the door. Went back in.

27 Q. And then on the third time, that's when the glove
28 box -- the third time --

29 A. When I got ready to leave, that's when the glove box

1 fell open.

2 Q. Now, when you were making these trips out to the
3 parking lot, you weren't punching in and punching out; right?

4 A. No, sir.

5 Q. So you were on the clock. But you could have gotten
6 in your car and driven off.

7 A. No, I didn't do that. No, sir.

8 Q. You said you didn't do it.

9 A. I didn't go nowhere that morning, till I got ready
10 to go get lunch.

11 Q. But you could have. You are just saying you didn't.

12 A. I didn't.

13 Q. Now, Catherine Snow, did she talk to you the day
14 that you say your gun got stolen or did -- was it the day
15 after?

16 A. The day after.

17 Q. Okay. Did she give you a description of the
18 clothing that the person she saw was wearing?

19 A. Yes, sir.

20 Q. What did she tell you he was wearing?

21 A. A white cap. Short pants. Some short pants. And
22 some tennis shoes or something like that.

23 Q. Any, any description of the shirt?

24 A. I can't remember. I think she said some color
25 shirt. I can't remember.

26 Q. But it was -- you know it was short pants and a
27 white cap.

28 A. I think she said short pants and a white cap, if I'm
29 not mistaken.

1 Q. She didn't -- do you know if she knew Curtis?

2 A. I didn't know at that time.

3 Q. Okay. You know now that she says she knew Curtis.

4 A. Yeah. Because she had said she knowed him.

5 Q. Now, you, you told us that you lied to the police
6 about where you got the gun.

7 A. Right.

8 Q. Because you were trying to protect Curtis. Where
9 did you tell them you got the gun?

10 A. I told them I got it from my brother.

11 Q. Where did you really get the gun?

12 A. From -- I call him Ike. I don't know his name. I
13 don't know his real name.

14 Q. Some guy named Ike.

15 A. Yeah. It's -- he got a real name. I don't know his
16 real name though.

17 Q. Is that, that just a street name?

18 A. That's just, just nickname. Nickname.

19 Q. Okay. You bought the gun on the street.

20 A. I bought it from him, from his house.

21 Q. You bought it from Ike.

22 A. From his house.

23 Q. Here. And he is not -- he is not operating a pawn
24 shop --

25 A. No. No.

26 Q. -- or gun dealership. You bought it from the guy's
27 house.

28 A. Right.

29 Q. How could it possibly protect Curtis -- now, is this

1 brother you are talking about, is he related to Curtis too or
2 is he --

3 A. No. He is not related to Curtis.

4 Q. What possible difference could it make to Curtis
5 where you got the gun from?

6 A. Say that again now.

7 Q. Well, you are telling us you, you got caught in a
8 lie, and you said the reason you lied was to help Curtis.

9 A. After Catherine Snow had told me it was Curtis, and
10 I didn't want to say nothing about it, that is why I lied.

11 Q. But you lied and said where you got the gun from.

12 A. Right. I lied. Said I got it from my brother.

13 Q. How could that have possibly protected Curtis?

14 A. Because they have -- because they had said that I
15 had give Curtis the gun.

16 Q. Okay.

17 A. Right. When they start questioning me, they had
18 said that I -- that's, that's when I lied about it. They had
19 said I give Curtis the gun, that he didn't break in my pocket
20 in my car.

21 Q. Okay. So they started accusing you of being
22 involved in the Tardy Furniture store murders.

23 A. No, sir. They didn't accuse me of nothing.

24 Q. They told you -- they were accusing you of giving
25 somebody the gun that they thought did it.

26 A. I think they said they -- they thought -- they
27 thought I had give Curtis the gun. That is what they were
28 saying.

29 Q. All right. So you lied to protect yourself.

1 A. No, sir.

2 Q. You just lied.

3 A. Just lied. Just lied about the gun. Right.

4 Q. Mr. Simpson, you were once employed at Tardy
5 Furniture yourself, weren't you?

6 A. Part-time. Yes, sir.

7 Q. At one time you owned a pair of Fila tennis shoes;
8 isn't that right?

9 A. Yes. Yes, sir.

10 MR. DEGRUY: That's all I have, Your Honor.

11 THE COURT: Any redirect?

12 MR. EVANS: Yes, Your Honor. Briefly.

13 REDIRECT EXAMINATION BY MR. EVANS:

14 Q. Doyle, what size shoes do you wear?

15 A. Twelve.

16 Q. You couldn't get your foot in a 10 1/2 Fila, could
17 you?

18 A. No, sir, I could not.

19 Q. At the time you lied to the officers, what did you
20 think Curtis had done?

21 A. Stolen my gun.

22 Q. And done what with it?

23 A. Went down there and shot them peoples.

24 Q. You were asked about where you kept the gun. The
25 gun every time Curtis had seen it was where?

26 A. In my glove compartment in the car.

27 Q. And at night, where did you keep it?

28 A. Sometimes in my momma's house.

29 Q. Okay. But in the daytime, it was kept in the car.

1 A. Yes, sir.

2 Q. And Curtis knew that.

3 A. Yes, sir.

4 MR. EVANS: Nothing further, Your Honor.

5 THE COURT: Is Mr. Simpson released?

6 MR. EVANS: Yes, sir.

7 THE COURT: Mr. Simpson, you may step down.

8 You are released as a witness, and you may go.

9 THE WITNESS: Yes, sir.

10 MR. EVANS: Clemmie Fleming.

11 (THE WITNESS ENTERED THE COURTROOM.)

12 THE COURT: Come around, please, and face the
13 bench.

14 (THE WITNESS APPROACHED THE BENCH.)

15 Come around, step in front of me and raise your
16 right hand and take the oath.

17 Do you solemnly swear or affirm the testimony you
18 give in this case will be the truth, the whole truth and
19 nothing but the truth, so help you God?

20 THE WITNESS: I do.

21 THE COURT: Come around, please, and have a
22 seat.

23 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

24 THE COURT: State your name for the record,
25 please.

26 THE WITNESS: Clemmie Fleming.

27 THE COURT: You may proceed.

28 MR. EVANS: Thank you, Your Honor.

29 CLEMMIE FLEMING, Called on behalf of the State, having

1 been duly sworn, was examined and testified as follows:

2 DIRECT EXAMINATION BY MR. EVANS:

3 Q. Miss Flemming, that mike does not amplify your
4 voice; so I want you to speak loud. Okay.

5 Let's start over. State your name, please.

6 A. Clemmie Fleming.

7 Q. You don't even have to speak into it. Just sit back
8 and speak loud.

9 A. Clemmie Fleming.

10 Q. Miss Fleming, I want to direct your attention back
11 to July 16, 1996, and ask you what your physical condition was
12 at that time.

13 A. I was pregnant.

14 Q. How far along were you?

15 A. Five months.

16 Q. Okay. Did you have a reason and a need to go to
17 Tardy Furniture that day?

18 A. Yes, sir.

19 Q. What was that?

20 A. To pay on my furniture.

21 Q. All right. Did you get anyone to take you to Tardy
22 Furniture?

23 A. Yes, sir.

24 Q. Who was that?

25 A. Roy Harris.

26 Q. Roy Harris.

27 A. Yes, sir.

28 Q. Speak up just a little bit.

29 A. Yes, sir.

1 Q. Do you know what time that you went to Tardy
2 Furniture?

3 A. About 10:00.

4 Q. And why did you go?

5 A. To pay on my furniture.

6 Q. Did he carry you to the store?

7 A. Yes, sir.

8 Q. Did you go in the store?

9 A. No, sir.

10 Q. Why not?

11 A. I didn't feel like it.

12 Q. Okay. And why did you not feel like it?

13 A. Because I was pregnant.

14 Q. Okay. Once you decided not to go in the store, what
15 did you do?

16 A. We left. And I was going to go to my sister's
17 house.

18 Q. Where does she live?

19 A. On Academy.

20 Q. Okay. Before you decided not to go in because you
21 didn't feel good, did y'all actually pull up to the store or
22 drive by it or what did y'all do?

23 A. We pull up to the store.

24 Q. The front of it?

25 A. Yes, sir.

26 Q. Did you see anyone at that time?

27 A. No, sir.

28 Q. Which direction did you go after you left the front
29 of Tardy Furniture?

1 A. On the side of Tardy.
2 Q. On the side of Tardy's.
3 A. Yes, sir.
4 Q. Do you know the name of that street?
5 A. Carrollton Avenue.
6 Q. When you turned on to that street, did you see
7 anyone?
8 A. Yes, sir.
9 Q. Who did you see?
10 A. Curtis.
11 Q. Curtis who?
12 A. Flowers.
13 Q. What was he doing?
14 A. Running.
15 Q. Which direction was he running?
16 A. Towards the pink house.
17 Q. Would that be toward or away way from Tardy
18 Furniture?
19 A. Away.
20 Q. He was running away from the direction of Tardy
21 Furniture.
22 A. Yes, sir.
23 Q. How was he running?
24 A. Running real fast.
25 Q. Would you consider it a jog or an all-out run?
26 A. An all-out run.
27 Q. Where did you see him run to?
28 A. Across the pink -- it used to be a pink house down
29 there across the yard.

1 Q. Okay. Which direction -- well, first, what caught
2 your eye to him? Why, why did you notice Curtis Flowers
3 running that morning?

4 A. Because he was running.

5 Q. Did that appear unusual to you?

6 A. Well, sometime I see him; sometimes I didn't.

7 Q. Okay. Had you ever seen him down in that area
8 running before?

9 A. No, sir.

10 Q. How long had you known him?

11 A. Ever since I was old enough to know him.

12 Q. So all your life.

13 A. Yes, sir.

14 Q. Any question in your -- in your ability to say for
15 sure that that was Curtis Flowers you saw?

16 A. Yes, sir. It look like him. It was him.

17 Q. Okay. How close a look did you get?

18 A. I wasn't right up on him, but I could tell that it
19 was him.

20 Q. You could tell it was him.

21 Which direction did y'all go from there?

22 A. Up to -- up, up Carrollton Avenue. This little
23 road. I forgot what the name is.

24 Q. If you can't remember the name of the road, just
25 tell me which direction you turned.

26 A. We turned left.

27 Q. Okay. After you turned left, what did you do?

28 A. We went on up to Powell Street.

29 Q. Okay. When you got to Powell Street, what did you

1 do?

2 A. Went down Powell Street and came back up 51.

3 Q. All right. So you turned, would it be to the right
4 on Powell Street or the left?

5 A. Go to -- when you get on Powell Street, you turn
6 right.

7 Q. Okay.

8 A. To get on Powell Street.

9 Q. Okay. Once you got to 51, what did you do?

10 A. Took another right.

11 Q. Took another right. And what did you do after you
12 got on 51?

13 A. Went on up. And I seen him again.

14 Q. You seen him again.

15 A. (Nodded.)

16 Q. Who did you see again?

17 A. Curtis.

18 Q. Where was he at that time?

19 A. Coming across the highway.

20 Q. Across the highway.

21 A. Yes, sir.

22 Q. At what location?

23 A. By Stop-n-Go.

24 Q. Was he still running?

25 A. Yes, sir.

26 Q. Okay. So y'all didn't go directly to Stop-n-Go.
27 Y'all went around a couple of streets; is that correct?

28 A. Yes, sir.

29 Q. When you saw him running across the highway at

1 Stop-n-Go, did you notice which direction he went at that
2 time?

3 A. His daddy work down at Stop-n-Go. I figure he was
4 going to the store with his daddy.

5 Q. Okay. So you knew the whole family.

6 A. Yes, sir.

7 Q. And you knew his daddy worked there, and you just
8 assumed that he was going, running to see his daddy.

9 A. Yes, sir.

10 Q. And this was what time of the morning?

11 A. About 10:00 in the morning.

12 Q. Would you point to and identify the person you saw
13 running away from Tardy Furniture that morning?

14 A. Right there. (Pointed.)

15 MR. EVANS: May the record reflect that she has
16 identified the defendant?

17 THE COURT: Let it so reflect.

18 MR. EVANS: Tender the witness, Your Honor.

19 MR. DEGRUY: Thank you, Your Honor.

20 MR. HILL: Wait a minute.

21 MR. EVANS: One second.

22 MR. HILL: Can we have the Court's indulgence a
23 minute, Your Honor?

24 THE COURT: Sure.

25 MR. EVANS: Just a second, Your Honor.

26 See if we can find the right one.

27 Your Honor, may I have the witness step down?

28 THE COURT: You may step down, Miss Fleming.

29 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

1 Q. (By Mr. Evans:) Miss Fleming, I want you to stand
2 back just a little where the jury can see this. Don't block
3 any of them. Can you tell if this is the street that runs
4 down by Tardy Furniture or not?

5 A. Yes, sir.

6 Q. Is that the street that you are saying that you went
7 down after you left Tardy Furniture?

8 A. Yes, sir.

9 Q. Do you see the approximate area that you first saw
10 Curtis Flowers running in?

11 A. (Indicated.)

12 Q. All right. You are pointing to a red "X". Did you
13 personally place that red "X" on this drawing at an earlier
14 time?

15 A. Yes, sir.

16 Q. And is that where you first saw him running?

17 A. Yes, sir.

18 Q. You may take your seat.

19 A. (Complied.)

20 MR. EVANS: Tender the witness.

21 THE COURT: You may proceed.

22 CROSS-EXAMINATION BY MR. DEGRUY:

23 Q. Good afternoon, Miss Fleming. This person you saw
24 running, what was he wearing?

25 A. I don't know what he was wearing.

26 Q. You didn't -- you didn't notice any clothes he was
27 wearing.

28 A. No, sir.

29 Q. Was he wearing short pants?

1 A. I don't know. I just know his face.

2 Q. Did you get a -- you're watching for a little while

3 or just make a quick glance?

4 A. Just a quick glance.

5 Q. You saw him twice though; right?

6 A. Yes, sir.

7 Q. Was he sweating a lot?

8 A. I couldn't tell.

9 Q. Couldn't tell.

10 A. (Shook head.)

11 Q. Was he carrying anything?

12 A. I don't know.

13 Q. You didn't see anything.

14 A. (Shook head.)

15 Q. Now, did you go to your sister's house --

16 A. Yes, sir.

17 Q. -- after? You didn't tell her anything about seeing

18 anybody running, did you?

19 A. She, she didn't ask.

20 Q. And you didn't tell the police about, about seeing

21 Curtis running until April of 1997; is that right?

22 A. Yes, sir.

23 Q. That was long after they had rewards out for people.

24 A. Yes, sir.

25 Q. Do you know Stacey Wright and Latarsha Blissett?

26 A. Yes, sir.

27 Q. Are they friends of yours?

28 A. Cousins.

29 Q. Cousins. Now, you tell us you owed some money on

1 furniture back in July; right? Is that -- is that why you
2 went down to Tardy?

3 A. Yes, sir.

4 Q. You never did pay that bill, did you?

5 A. No, sir.

6 MR. DEGRUY: That's all I have, Your Honor.

7 THE COURT: Redirect?

8 REDIRECT EXAMINATION BY MR. EVANS:

9 Q. People that he has asked you about knowing, have
10 they tried to get you to change your testimony in any way?

11 A. No, sir.

12 Q. They hadn't come to you and asked you to change your
13 story to help Curtis.

14 A. No, sir.

15 Q. Okay. Is what you are telling the ladies and
16 gentlemen of this jury the truth?

17 A. Yes, sir.

18 Q. Have you ever received one penny of reward?

19 A. No, sir.

20 Q. Is anything that you are doing for a reward?

21 A. No, sir.

22 Q. You are saying the same thing that you have said
23 since 1996; is that right?

24 A. Yes, sir.

25 Q. And as far as you paying on your bill, there was a
26 cosigner on your bill, wasn't there?

27 A. Yes, sir.

28 Q. Who was that?

29 A. My brother.

1 Q. What's his name?

2 A. Robert Fleming.

3 Q. Are you aware that after all of this was over, that
4 Tardy Furniture filed and got a judgment against your brother,
5 Robert Fleming, for the amount of that debt?

6 A. No, sir.

7 MR. EVANS: Nothing further.

8 THE COURT: Miss Fleming, you may step down.

9 I assume she is excused.

10 MR. EVANS: Yes, sir.

11 THE COURT: You are free to go, Miss Fleming.

12 MR. EVANS: Your Honor, we have got a long
13 transcript I guess we need to read.

14 THE COURT: Ladies and gentlemen, I, I know the
15 length of the transcript. I figure we will read about
16 half of it today and half of it tomorrow.

17 Ladies and gentlemen, I will let you stretch and
18 move a few minutes before this starts, because it will
19 probably be taxing on you. So I will allow a recess.

20 (A RECESS WAS TAKEN.)

21 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER AND MR.
22 CARTER APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE
23 THE HEARING OF THE COURTROOM AUDIENCE. THE BENCH CONFERENCE
24 WAS REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

25 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
26 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
27 PROCEEDINGS WERE AS FOLLOWS:)

28 THE COURT: If you will, bring the ladies and
29 gentlemen of the jury.

1 (THE JURY RETURNED TO THE COURTROOM.)

2 THE COURT: Court will come back to order.

3 Ladies and gentlemen, the next witness is going to
4 be Mr. Charles "Porky" Collins. At a previous occasion
5 Mr. Collins had given some testimony under oath, and he
6 is now deceased.

7 At the time he was testifying, I believe, he was a
8 Caucasian, white, gentleman, approximately 60 years of
9 age.

10 And you know, Mr. Hill is going to read the answers.
11 Mr. Evans is going to read the questions.

12 Am I getting that wrong?

13 MR. HILL: I am going to read the questions for
14 Mr. Evans.

15 THE COURT: At the trial Mr. Evans was reading
16 the questions, but Mr. Hill is going to read his part. I
17 guess Mr. William Blackmon is going to read the testimony
18 of Mr. Collins.

19 Mr. Blackmon, if you will, come around.

20 (MR. BLACKMON WAS SEATED ON THE WITNESS STAND.)

21 When he is answering these questions, it is the
22 words of Porky Collins being spoken by William Blackmon.

23 Again, Mr. Collins was under oath at the time.

24 (A PORTION OF THE TRANSCRIPT OF THE TESTIMONY OF CHARLES
25 "PORKY" COLLINS WAS READ.)

26 (A WAL-MART RECEIPT FROM CHARLES "PORKY" COLLINS WAS
27 MARKED STATE'S EXHIBIT NUMBER 113 AND ADMITTED INTO EVIDENCE.)

28 THE COURT: Miss Steiner, let's just pick it up
29 in the morning on Page 1643 and recess for the evening at

1 this time.

2 Ladies and gentlemen of the jury, I'll ask you to
3 sit in the jury room for a few minutes until everybody is
4 cleared out and you will be shown out at that time.

5 I ask you not to discuss the case with anyone or
6 among yourselves or watch any broadcast or listen to
7 anything or read anything about the case, not form any
8 opinions about the case until you have heard all the
9 evidence.

10 And with that, ladies and gentlemen of the jury, we
11 will resume at 9:00 in the morning, and I hope you have a
12 good evening.

13 (THE TESTIMONY ON FRIDAY, SEPTEMBER 26, 2008, WAS
14 CONCLUDED. PROCEEDINGS RESUMED IN OPEN COURT ON SATURDAY,
15 SEPTEMBER 27, 2008.)

16 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
17 CARTER AND THE DEFENDANT WERE PRESENT. PROCEEDINGS WERE AS
18 FOLLOW:)

19 MR. EVANS: Just for clarity purposes, I
20 thought I had already offered them into evidence. But
21 the blow-ups of the shoe impressions - 48, 49, 47 and
22 50 - I would offer into evidence, the ones that everybody
23 has testified from.

24 MR. DEGRUY: I have no objection.

25 THE COURT: I'll allow them to be admitted.

26 (THE PHOTOGRAPH OF THE FOOTWEAR IMPRESSION PREVIOUSLY
27 MARKED STATE'S EXHIBIT NUMBER 47 FOR IDENTIFICATION WAS
28 ADMITTED INTO EVIDENCE.)

29 (THE PHOTOGRAPH OF THE FOOTWEAR IMPRESSION PREVIOUSLY

1 MARKED STATE'S EXHIBIT NUMBER 48 FOR IDENTIFICATION WAS
2 ADMITTED INTO EVIDENCE.)

3 (THE PHOTOGRAPH OF THE FOOTWEAR IMPRESSION PREVIOUSLY
4 MARKED STATE'S EXHIBIT NUMBER 49 FOR IDENTIFICATION WAS
5 ADMITTED INTO EVIDENCE.)

6 (THE PHOTOGRAPH OF THE FOOTWEAR IMPRESSION PREVIOUSLY
7 MARKED STATE'S EXHIBIT NUMBER 50 FOR IDENTIFICATION WAS
8 ADMITTED INTO EVIDENCE.)

9 MR. HILL: Your Honor, on further housekeeping
10 note. This has to do with the reading of Porky Collins'
11 transcript. On Page 165 during the direct testimony,
12 yesterday when I offered into evidence State's Exhibit
13 Number 113, which was the Wal-Mart receipt that Porky
14 Collins had that was offered and received as State's
15 Exhibit 113.

16 However, in the transcript it was numbered at the
17 time -- I think that was back in Tupelo. It was numbered
18 as 99. When I read it, while we were reading it, I
19 picked up, and I actually read from the Exhibit 113 as
20 opposed to 99. I don't think it makes any difference at
21 all.

22 I conferred with counsel for the defense and just
23 wanted to point out for the record although in the
24 transcript it says 99, we had since that time renumbered
25 the same Exhibit S-113.

26 MS. STEINER: Your Honor, on similar note, as I
27 have been reading the transcript, it's noted in the
28 transcript that the statement with which the witness is
29 being cross examined is actually D-8. The attorney doing

1 the cross referred to it from time to time as D-6, and I
2 have been reading D-8.

3 THE COURT: Okay. That's fine.

4 We will resume now with beginning the transcript, I
5 believe, on Page 1643.

6 If you will, bring the jury in.

7 (THE JURY ENTERED THE COURTROOM.)

8 THE COURT: Good morning, ladies and gentlemen.
9 Court will come back to order.

10 And this is the continuation of the testimony of
11 Charles "Porky" Collins. You may proceed.

12 (PROCEEDINGS CONTINUED WITH THE READING OF THE TRANSCRIPT
13 OF THE TESTIMONY OF CHARLES "PORKY" COLLINS.)

14 (A BREAK WAS TAKEN.)

15 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
16 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
17 PROCEEDINGS RESUMED WITH THE READING OF THE TRANSCRIPT OF THE
18 TESTIMONY OF CHARLES "PORKY" COLLINS.)

19 MS. STEINER: For the record, we are resuming
20 on Page 1706. That will be direct examination.

21 (THE READING OF THE TRANSCRIPT OF THE TESTIMONY OF
22 CHARLES "PORKY" COLLINS RESUMED.)

23 THE COURT: Who would the State's next witness
24 be?

25 MR. EVANS: Odell Hallmon, Jr.

26 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
27 BENCH.)

28 THE COURT: Do you solemnly swear or affirm the
29 testimony you give in this case will be the truth, the

1 whole truth and nothing but the truth, so help you God?

2 THE WITNESS: Yes, sir.

3 THE COURT: Come around, please, and have a
4 seat.

5 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

6 THE COURT: State your name, please.

7 THE WITNESS: Odell Hallmon.

8 THE COURT: You may proceed, Mr. Evans.

9 ODELL HALLMON, JR., Called on behalf of the State, having
10 been duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION BY MR. EVANS:

12 Q. Mr. Hallmon, you need to speak loud so that
13 everybody can hear, you because that mike does not amplify.
14 Okay?

15 A. Yes, sir.

16 Q. Let's start over. If you would, state your name,
17 please.

18 A. Odell Hallmon.

19 Q. Mr. Hallmon, I noticed you are wearing orange.

20 A. Yes, sir.

21 Q. Are you a state inmate?

22 A. Yes, sir.

23 Q. What are you in jail for?

24 A. Possession of controlled substance.

25 Q. Okay. How much time are you serving?

26 A. Fourteen years.

27 Q. Who prosecuted you and gave you those 14 years?

28 A. The D.A. office. Mr. Doug Evans.

29 Q. So I did.

1 A. Yes, sir, you did.

2 Q. And was that after you had given me some
3 information?

4 A. Yes. No, sir. That was before.

5 Q. Okay. Now, what are your prior convictions?

6 A. Aggravated assault and possession of a firearm.

7 Q. Mr. Hallmon, do you know a person by the name of
8 Curtis Flowers?

9 A. Yes, sir.

10 Q. How long have you known him?

11 A. A long time. Me and Curtis been friends before all
12 this stuff happened.

13 Q. Okay. Close friends?

14 A. Yes, sir.

15 Q. After this happened, were you in contact with him?

16 A. Yes, sir. We, we was in the penitentiary together.

17 Q. Okay. In what area?

18 A. Unit 32 lock down.

19 Q. Were you able to talk to him where you were?

20 A. Yes, sir.

21 Q. Did he ask you to do any favors for him?

22 A. Yes, sir.

23 Q. What did he ask you to do?

24 A. He asked me to lie against my sister, discredit her
25 testimony.

26 Q. Who is your sister?

27 A. Patricia Ann Hallmon.

28 Q. Why did he want you to lie against your sister?

29 A. Well, at the time he made like she played a big part

1 in him getting out of prison. And I just went along with it.

2 Q. And you say y'all were close friends at that time.

3 A. Yeah. We close friends, and I just went along with
4 it.

5 Q. And y'all were in jail together.

6 A. Yes, sir.

7 Q. Because he asked you to lie for him, did you, in
8 fact, lie for him?

9 A. Yes, sir.

10 Q. Did you give sworn testimony at some point for the
11 defense saying that your sister had lied?

12 A. Yes, sir, I did.

13 Q. Did you also write a letter to his mother and to his
14 attorney?

15 A. Yes, sir. Yeah. He -- me and him write the letter.
16 He wrote the letter, but I just recopied it.

17 Q. Was anything in those true?

18 A. No, sir. Wasn't nothing true.

19 Q. Why did you lie for him?

20 A. Well, at the time we were friends, and I was trying
21 to -- I was going through -- he promised me a lot of the
22 money.

23 And at the time in 32 lock down, you couldn't smoke. He
24 was the only one getting smoke through. He was getting to
25 smoke cigarettes and stuff, so I caught -- I was all crossed
26 up at the time.

27 Q. And at some point you came to me or got in touch
28 with me and told me that you wanted to admit that you had lied
29 for him; is that right?

1 A. Yes, sir.

2 Q. Were you in or out of jail when you contacted me?

3 A. I was out of jail when I contact you. But I just
4 had got out of penitentiary here. And when I got out, my
5 momma she was -- she was down on me because she had -- I had
6 told her about it, about the whole situation when I got out.

7 And she had told me I needed to get in touch with Mr.
8 Evans or D.A. office and tell them, just go on and tell the
9 truth. Because my sister, it was really bothering her because
10 I had lied on her like that.

11 Q. Did you get in touch with me?

12 A. Yes, sir. I called you on the telephone.

13 Q. What did you tell me about him asking you to lie?

14 A. I told you that we was in 32, and I lied on my
15 sister under oath. And I asked you could you please help me
16 straighten the lie up. And I talked to Mr. John Johnson. You
17 sent Mr. John Johnson to talk to me. I ain't talk to you
18 face-to-face.

19 Q. Did you ask me for any favors in exchange for your
20 testimony?

21 A. No, sir, I come to you. I came to you volunteering.

22 Q. Were you in any trouble at that time?

23 A. No, sir.

24 Q. You were out of jail.

25 A. No. My momma was staying on me. So try to
26 straighten the lie up I made, me and Curtis.

27 Q. Do you see the person in the courtroom here today
28 that asked you to lie for him?

29 A. Yes, sir.

1 Q. Would you point to him and identify him?

2 A. There he go right there. (Indicated.)

3 Q. Did you have an occasion while y'all were in jail
4 together to talk about whether or not he actually committed
5 these murders?

6 A. Yeah. He admitted to me that he killed them people.
7 He did it.

8 MR. EVANS: Your Honor, I'll tender the
9 witness.

10 THE COURT: Proceed.

11 MR. DEGRUY: Thank you, Your Honor.

12 CROSS-EXAMINATION BY MR. DEGRUY:

13 Q. Good morning, Mr. Hallmon.

14 A. Good morning, sir.

15 Q. You told us you had been convicted of an aggravated
16 assault and a possession of a firearm.

17 A. Yes, sir.

18 Q. That was possession of a firearm by a convicted
19 felon.

20 A. Yes, sir.

21 Q. So these were two separate events; right?

22 A. Yes, sir.

23 Q. You went to the penitentiary for the aggravated
24 assault.

25 A. For both of them.

26 Q. Did more than a year.

27 A. Yes, sir.

28 Q. You got out. Both of them, two aggravated assaults.

29 A. No, sir. One.

1 Q. Okay. So you had one aggravated assault.

2 A. Yes, sir.

3 Q. You did a couple of years in the penitentiary.

4 A. Yes, sir.

5 Q. Do you remember how many?

6 A. Two years and nine months, I think.

7 Q. Okay. And then after you got out, you got arrested
8 for having a gun.

9 A. No, sir. I had -- I was on paper. I went back. I
10 had violated probation by refusing to pay restitution.

11 Q. Okay. And then you got out again.

12 A. Yes, sir.

13 Q. And that's when you got arrested for having the gun.

14 A. Yes, sir.

15 Q. Did you go back to the penitentiary again?

16 A. They sent me back again.

17 Q. How much time did you serve that time?

18 A. Three -- about two years and -- almost three years.

19 Q. Now, you told -- then you got out again and --

20 A. I got out again.

21 Q. When you first talked to, you said, John Johnson
22 with the D.A.'s office, you told him that Mr. Flowers never
23 admitted to the killing.

24 A. Who? I ain't tell Mr. Johnson that.

25 Q. Do you remember him videotaping your statement?

26 A. Yes, sir.

27 Q. And in that statement didn't you say he never
28 directly told me he did it.

29 A. Well, I told Mr. Johnson that he admitted to it.

1 Q. You are telling us that on those videos you said --

2 A. I told Mr. Johnson he admitted to it.

3 Q. And do you recall testifying back in 2004 in this --
4 in this case?

5 A. Yes, sir.

6 Q. You were asked the question isn't it a fact that you
7 told John Johnson that Curtis Flowers never directly admitted
8 to you that he killed anybody at Tardy's Furniture store.

9 A. I didn't say that.

10 Q. You were asked that question.

11 A. Um-hum. Repeat your question, please.

12 Q. In 2004, you were asked isn't it a fact that you
13 told John Johnson that Curtis Flowers never directly admitted
14 to you that he killed anybody at Tardy's Furniture store. And
15 your answer was I told John Johnson that, I believe.

16 A. No. If I said that, I didn't -- it wasn't meant
17 like that. I know he -- he the one admitted to me. I didn't
18 admit nothing. He admitted. He admitted to me.

19 Q. I'm not asking you -- I know you already came in
20 here and said that he admitted it to you.

21 A. Right.

22 Q. What I'm saying is when, when you were interviewed
23 by Mr. Johnson --

24 A. I told Mr. Johnson that he admitted to me.

25 Q. And so that would be on that videotape.

26 A. Yes, sir.

27 Q. And you told us you were out of jail when you
28 contacted Mr. Evans.

29 A. Yes, sir. At home.

1 Q. And you --

2 A. At my mom's house.

3 Q. You were at your mom's house.

4 A. Yes, sir.

5 Q. And you have been arrested twice since then.

6 A. Yes, sir.

7 Q. Now, this 14 years you are serving, you are set to
8 get out in March of, of 2016; is that right?

9 A. No, sir.

10 Q. No. When are you set to get out?

11 A. My E.R., see, you got a E.R.S. date on good -- you
12 get -- see, I get 30 for 30. Well, I really get 40 days a
13 month, really. So it push my time up. Every month I do, I
14 get 40 days for it.

15 Q. Okay.

16 A. So it normally pushes and pushes up.

17 Q. Okay.

18 A. And then -- and then -- you know, see, I got medical
19 problems too. So dealing with my medical problems and the
20 time, this and that, I'm probably -- I'm eligible for early
21 release, you know, whenever, sometime. I, I really can't say
22 --

23 Q. Might be --

24 A. Exactly. Sir.

25 Q. I'm sorry. Go ahead.

26 A. I can't say the exact date.

27 Q. Might be a whole lot sooner than that.

28 A. It might be, you know. Because I'm dealing with a
29 medical. I'm up under -- up under doctor care too, see. So

1 dealing with the doctor care and my time and all this, yeah, I
2 might. It's possibility.

3 Q. So, so you are getting earned release time. You are
4 getting --

5 A. Right.

6 Q. -- what they call trusty time.

7 A. Right.

8 Q. So this 14 years that you got is going to be a whole
9 lot less than that.

10 A. Well, I'm up under the 14. Well, I was sentenced to
11 19 years, five suspended on paper. I got five years on paper.
12 When I do get out, if I ever, if I live to get out, I'll still
13 have five years on paper. So it's, it's a package deal. I
14 was -- you know, I took plea bargain. I took it.

15 Q. Because the truth is based on your prior convictions
16 --

17 A. Right.

18 Q. -- including crime of violence, you were facing life
19 without parole.

20 A. Well, up under the -- I don't know was I --

21 Q. You --

22 A. -- facing -- I was facing -- my lawyer said I was
23 facing, like, 25. So I got 19. So it's -- it really wasn't
24 no deal.

25 Q. Your lawyer didn't tell you and you are telling me
26 with all your trips to the penitentiary that you don't know
27 what a habitual offender is.

28 A. Well, I -- a habitual offender is -- well, you got
29 the big and the little one.

1 Q. Uh-huh.

2 A. So I was up under the little one at 25.

3 Q. Why were you under the little one?

4 A. Because my life, what I been in and out of prison.

5 Q. You have a prior violent felony.

6 A. Right.

7 Q. You served more than a year.

8 A. Yes, sir.

9 Q. And you are telling me that that doesn't qualify you
10 for the big habitual.

11 A. Not to my knowledge. I was -- I don't -- I ain't
12 experienced in the law like you. I don't know. I don't know
13 nothing about no law like that. I just -- if I did, I
14 wouldn't be here right now today. Just being honest.

15 Q. You mean you didn't know the things you were doing
16 was against the law.

17 A. At the time, man, I was looking at it like this
18 right here. This a friend. I was just trying to help him,
19 right. See, I didn't know I was going to get dragged in it
20 like this here.

21 I -- if I would of, I wouldn't be in here right now
22 today. See, I'm just -- you know, the only thing I did was
23 just copy the letters he wrote and sent them out and went to
24 court. That's it.

25 Q. But if you weren't -- if you hadn't said that you
26 did those things, that's got nothing to do with what you are
27 doing out in the free world getting yourself sent back to the
28 penitentiary again and again and again; right?

29 A. I messed up. I messed up.

1 Q. Right. You messed up again and again and again.

2 A. I'm paying. I'm doing time for it.

3 Q. And you could have been doing, under the law -- you
4 say your lawyer didn't advise you and the Court didn't advise
5 you that you could have been facing life without parole.

6 A. I'm not -- I don't know nothing like the law like
7 that.

8 Q. You are saying they just told you you could have
9 been facing 25.

10 A. I knew I was facing a lot of time, but I didn't know
11 I was facing no, what -- I wasn't trying to go to no court.
12 Only thing I trying to do is get the best plea bargain I could
13 get. That's all I was trying to do. I was guilty. I was
14 guilty so I was trying to...

15 Q. So you got the best possible deal you could get.

16 A. I got the first one they came to me with.

17 Q. That was just -- Mr. Evans just got nothing to do
18 with your help on this case. We'll just cut you a break.

19 A. I never did see Mr. Evans during this. I was
20 talking to my lawyer.

21 Q. Okay.

22 A. I tried to talk to Mr. Evans. Mr. Evans wouldn't
23 talk to me.

24 Q. Now, you said Mr. Flowers promised you money.

25 A. Yes, sir.

26 Q. Promised you cigarettes.

27 A. Yes, sir. No. It wasn't no promises. I was
28 getting -- he was giving me cigarettes. He was feeding me
29 cigarettes.

1 I was -- see, in lock down, 32 lock down, you can't
2 smoke. It's a non-smoking facility. Okay. If you get
3 cigarettes, you know, cigarettes is addicting. Nicotine is
4 addicting.

5 So when he was getting cigarettes in there, he was giving
6 me cigarettes. We were right there. So he was giving me
7 cigarettes. I was smoking with him, and I was just doing
8 whatever he asked me to do. I did it.

9 Q. Did you get some write-ups for having cigarettes?

10 A. I have got some in my file for smoking. Yes, sir.

11 Q. How much money were you promised?

12 A. Tens of thousands. He had told me something like he
13 was -- like, this how it really went on. Okay. He was like,
14 all right. We was -- if, if he beat this charge, he was going
15 to sue the country or sue Winona, Mississippi, Montgomery
16 County. And that's when he was going to pay me. That is how
17 it was said. Exact words. He had to beat the charge first.
18 And that's when he was going to pay me so much money then.

19 Q. So, so you took it on a contingency and --

20 A. That was true.

21 Q. What? You never talked about a dollar amount.

22 A. Yeah. You know, he had promised he was going -- he
23 said he was going to have so many hundreds of thousands. So
24 he saying well, I'm going to give you a certain -- about 20-,
25 30,000.

26 I'm serious. This what he told me now. I ain't got not
27 reason to lie. I done lied already. I'm just telling you the
28 truth.

29 Q. You wouldn't lie.

1 A. I ain't said -- I said I ain't got no reason to lie
2 now. I am trying to straighten a lie up me and him done put
3 together.

4 Q. So, so you would lie on the hopes of this hundreds
5 of thousands of dollars.

6 A. No. It wasn't no hundreds of thousands. It wasn't
7 that. It was tens of thousands I'm saying.

8 Q. Tens of thousands.

9 A. I just actually can't remember the exact number, but
10 I know it was in the tens of thousands. It might have been
11 10,000, 20,000. Something like that.

12 Q. And you'd lie for a few cigarettes.

13 A. Yeah. We was -- yeah. Cigarettes. It's nicotine
14 is addiction.

15 Q. But you want us to believe that you wouldn't lie to
16 cut a, a sentence. Even if you didn't know it was life
17 without parole, even if you thought it was just 25 years,
18 because habitual -- even when you talking about little
19 habitual, it's still day-for-day, isn't it?

20 So you are telling us you are going to get out in a
21 couple of years, you think.

22 A. Okay. I already been locked up three years, almost
23 four years; right?

24 Q. Um-hum.

25 A. Okay. Nineteen years is a life sentence to me
26 anyway. Fourteen years is a life sentence. Three or four
27 years is a life sentence. See, all them are life sentences to
28 me. Dealing with my sickness, with my health, all of that is
29 a life sentence with me.

1 Q. Twenty-five years day-for-day is very, very
2 different than 19 years, five of that on paper. And maybe get
3 out in six or seven.

4 A. To you it might be. It might be to you. But see,
5 to me it's totally different.

6 Q. Well, then why did you care about making a deal?

7 A. Because at the time -- at the time because I was
8 looking, hoping and praying that my body hold up long enough
9 for me to get out just enough time. I didn't want to face no
10 life sentence in prison, 25 years.

11 So plea bargain with 19 years, 14 to serve. So I went on
12 and took it. Because at the time I was thinking well, I might
13 just live long enough to get out again and try to be somebody,
14 man. I don't know. I done destroyed myself.

15 Q. Well, I'll tell you, Mr. Hallmon, you are telling us
16 the 14 years -- when you say 30 for 30, you mean every 30 days
17 you serve, you get 30 days, an extra 30 days knocked off your
18 sentence.

19 A. Sometimes 40.

20 Q. Sometimes 40. So we are talking about maximum you
21 are going to serve six or seven of that 14.

22 A. No. See, it's up under -- see, you sentenced up
23 under the law. It's 85 percent law; right? Okay. You knock
24 85 percent off the 14 from the door. That about two years and
25 something. All right. You knock that. So that will leave
26 you with about 11 years, about 11. Yeah. You break that in
27 half, and that will be about five. Then you take -- you got
28 another -- you got ten days. You know how the --

29 Q. So I'm just trying to get the maximum. I'm actually

1 giving you more time than you think you are going to serve.

2 A. Yeah.

3 Q. It's really less than five years.

4 A. Less than five hopefully.

5 MR. DEGRUY: That's all I have, Your Honor.

6 REDIRECT EXAMINATION BY MR. EVANS:

7 Q. Mr. Hallmon, I wasn't going to ask you this, but
8 since you have been attacked on it so, do you mind telling
9 this jury what illness you've got?

10 MR. DEGRUY: Your Honor, I avoided asking him
11 that direct question.

12 MR. EVANS: I know and --

13 THE COURT: I think you have gotten into it; so
14 it is proper to get into it on redirect.

15 MR. DEGRUY: I'm thinking of the witness at
16 this point, Your Honor.

17 THE COURT: Well, your sympathy for him is
18 touching, but I still think the district attorney can ask
19 him that question.

20 Q. (By Mr. Evans:) I hate to even ask you, but will
21 you tell the ladies and gentlemen of the jury what illness you
22 have got?

23 A. I got AIDS.

24 Q. Do you expect to live long enough to get out of the
25 penitentiary?

26 A. No, sir.

27 Q. Is what you are telling this jury the truth?

28 A. Yes, sir.

29 MR. EVANS: Nothing further.

1 THE COURT: Mr. Hallmon, you may step down.

2 Who will be your next witness?

3 MR. HILL: Mrs. Roxanne Ballard, Your Honor.

4 (THE WITNESS ENTERED THE COURTROOM.)

5 THE COURT: Come around, please.

6 (THE WITNESS APPROACHED THE BENCH.)

7 If you would, face the bench, raise your right hand
8 and take the oath.

9 Do you solemnly swear or affirm the testimony you
10 give in this case will be the truth, the whole truth and
11 nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE COURT: Please come around.

14 BAILIFF: Your Honor, I have been informed by
15 the jury they need a bathroom break.

16 THE COURT: Okay. We will take a 10-minute
17 recess.

18 (A RECESS WAS TAKEN.)

19 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
20 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
21 PROCEEDINGS WERE AS FOLLOWS:)

22 (THE JURY RETURNED TO THE COURTROOM.)

23 THE COURT: Would you state your name, please,
24 for the benefit of the record?

25 THE WITNESS: Roxanne Miller Ballard.

26 THE COURT: Proceed.

27 MR. HILL: Thank you, Your Honor.

28 ROXANNE MILLER BALLARD, Called on behalf of the State,
29 having been duly sworn, was examined and testified as follows:

1 DIRECT EXAMINATION BY MR. HILL:

2 Q. Good morning, Miss Ballard.

3 A. Good morning.

4 Q. Miss Ballard, before we get started questioning, I
5 want to remind you and ask you -- it may take a little effort
6 for you to do this. But I want to ask you to speak loudly.

7 There is no voice amplification. So we've got to be able
8 to have you speak up loud enough that we can hear you as far
9 away from you as I am. Okay?

10 A. Okay. Okay.

11 Q. Tell us where you live, please.

12 A. Winona, Mississippi.

13 Q. And how long have you been a resident here in
14 Winona?

15 A. Well, let's see. I'm 49. So if you take out
16 college and about five years of Memphis, about 40 years.

17 Q. Tell us a little bit about your educational
18 background.

19 A. I have a B.A. in sociology from Millsaps. And then
20 I took the undergraduate classes to get into the master's
21 program in accounting at Ole Miss, and then I received a
22 master's in accounting from Ole Miss.

23 Q. Okay. Have you ever done any professional
24 accounting?

25 MR. EVANS: Your Honor, excuse me.

26 (MR. EVANS, MR. HILL, MR. DEGRUY AND MRS. STEINER
27 APPROACHED THE BENCH FOR A BENCH CONFERENCE THAT WAS HAD
28 OUTSIDE THE HEARING OF THE JURY. THE BENCH CONFERENCE WAS
29 REPORTED BUT NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

1 THE COURT: You may continue.

2 MR. HILL: Thank you, Your Honor.

3 Q. (By Mr. Hill:) Miss Ballard, have you ever done any
4 professional accounting work?

5 A. Yes. After I graduated in December of '89, I
6 started working for BDO Seidman in Memphis. And I have
7 continually done that since then.

8 Q. I am having a hard time hearing you.

9 A. I'm sorry. After I graduated in December of '89
10 from Ole Miss with a master's, I started working at BDO
11 Seidman in Memphis in January. And I have done accounting,
12 professional accounting since then.

13 Q. What, what kind of company is BDO Seidman?

14 A. It's an international CPA firm.

15 Q. What was your job there?

16 A. I was an auditor.

17 Q. Did you know Bertha Tardy?

18 A. Yes, sir, I did. She was my mother.

19 Q. Were you familiar with Tardy Furniture store?

20 A. Yes. Of course, I was.

21 Q. Do you know who owned the Tardy Furniture store,
22 Tardy Furniture company?

23 A. My mother, Bertha Tardy.

24 Q. Would you tell the ladies and gentlemen your -- how
25 you became familiar or what process was for your
26 familiarization with the Tardy Furniture company, please?

27 A. I think there are pictures of me in there from when
28 I was a few weeks old. And I went there all my life and got
29 to start working dusting furniture when I was little. And

1 then I started going to furniture market and working on the
2 books and collecting accounts and waiting on customers,
3 anything you could do.

4 Q. So you grew up in the store basically.

5 A. Yes, sir.

6 Q. Did you do any bookkeeping, accounting work later on
7 in the store?

8 A. Yes, sir, I did.

9 Q. Were you ever a regular employee of the store?

10 A. Yes, sir.

11 Q. In what capacity?

12 A. Momma called me the comptroller. I did all the
13 bookkeeping and accounting, payroll, payroll taxes, sales
14 taxes, all the posting to the ledger, making of P & L's,
15 everything. It was all manual back then. So it was all
16 written.

17 Q. Okay. Those things that you did, did that include
18 all kinds of accounting and bookkeeping work in the store?

19 A. Yes, it did.

20 MR. HILL: Indulge me one moment please, Your
21 Honor.

22 Q. Miss Ballard, I'm putting up a chart that has been
23 received into evidence, S-2-A. Can you tell us what that is a
24 picture of, please?

25 A. The front of Tardy Furniture company.

26 Q. Is that the way it looked back in July 1996?

27 A. Yes, sir, it is.

28 Q. And can you tell us what street it's on, please?

29 A. On Front Street. South Front Street.

1 Q. Okay. Is that at the corner of Front and Carrollton
2 Street here in Winona, Mississippi?

3 A. Yes, sir, it is.

4 Q. So you are telling us that the business is located
5 in Winona. What county is that?

6 A. Montgomery County.

7 Q. And what state?

8 A. Mississippi.

9 Q. Okay. Were you familiar with the routine business
10 practices and the normal operating procedures for the store?

11 A. Yes, sir.

12 Q. That is, for Tardy Furniture company.

13 A. Yes, sir.

14 Q. And is that based on your years of work there and
15 your personal knowledge of the routine in the store?

16 A. Yes, sir.

17 Q. Did you know Carmen Rigby?

18 A. Yes, sir.

19 Q. How well did you know her?

20 A. I knew her for about 20 years that she worked at
21 Tardy Furniture.

22 Q. Did you ever work there with her?

23 A. Yes, sir.

24 Q. What was her job?

25 A. She was the credit manager. She was the credit
26 manager. She did just about everything too. We all did. She
27 worked collecting accounts, selling to customers. She went to
28 furniture market to buy furniture, did the bookkeeping, the
29 check-up sheets.

1 Q. And how long -- how long did you say that you knew
2 her, knew of or worked with Carmen?

3 A. From the time she started working there, which was
4 about 20 years before they died.

5 Q. While you were with her or working with her in the
6 store, did you ever have an occasion to see her handwriting?

7 A. Yes, sir.

8 Q. Miss Ballard, did you ever have an occasion to not
9 only see her handwriting but to actually see her writing
10 things so that you knew what her writing looked like?

11 A. Of course. Yeah.

12 Q. Was that -- was that that you were able to see her
13 handwriting on a regular basis?

14 A. Yes, sir.

15 Q. So then you would know -- if you were able to see,
16 would you -- would you know her handwriting if you saw it?

17 A. Yes, sir.

18 Q. Would you tell us, please, then about the normal
19 opening -- well, let me first ask you about -- I want to talk
20 to you a little bit about the normal opening and closing
21 procedures. I guess I probably ought to start with closing
22 procedure.

23 At the end of the day's business, end of a day's work,
24 what did y'all do as far as closing up store for the night
25 with regard to the daily -- the day's sales receipts and
26 locking up and the money and such as that? What did y'all do
27 as the routine procedure for that?

28 A. Every day when you got ready to close, on the
29 counter up front was the big accounts receivable ledger and

1 then the receipt book. And then in the drawer in the front
2 counter is a metal tray where all the money was. And then
3 behind that was the deposit bag with the deposit book in it.
4 And you took those four things, stacked them up and walked
5 them to the back office, momma's office.

6 Q. Okay.

7 A. And put them in the safe and locked the safe.

8 Q. I am going to call your attention to State's Exhibit
9 29-A. Can you tell us what that is, please?

10 A. That's the little metal tray that, that serves as
11 the money drawer for Tardy Furniture.

12 Q. Okay. You got a pointer in your hand there. Would
13 you just point to where the tray part is? You might can come
14 down and just do it with your hand, if you like.

15 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

16 A. This whole -- I'm not too good at this. This whole
17 metal thing right here just pulls out. You just pick the
18 whole thing up. (Indicated.)

19 Q. You saying you lift the metal tray out of the wooden
20 drawer.

21 A. Correct. And then stack it up with everything else
22 and put it in the safe. Well, not everything else. The four
23 things I said.

24 Q. Okay. So you -- when you -- when y'all close up at
25 night, do you count down the money at night, or do you do that
26 the next day?

27 A. In the morning. Not at night.

28 Q. So at night then you take the money tray out of the
29 cash drawer --

1 A. Correct.

2 Q. -- with your ledger books and stuff, and you do
3 what? Where do you put that?

4 A. In the safe in the office, in momma's office.

5 Q. Okay. I want to show you -- this is State's Exhibit
6 38-A. What is that a picture of, if you can tell us?

7 A. This is the safe that I'm talking about. That's
8 kind of cracked. It's not locked at this point in time. And
9 that's momma's desk, momma's chair.

10 Q. This is the safe here.

11 A. Yes, sir.

12 Q. So if I understood you correctly, you took the money
13 box, the ledger book, you put it in the safe.

14 A. With the receipt book and the money bag.

15 Q. Okay. And when you --

16 A. But the money was not in the bag. The money stays
17 in the drawer, in the -- you pull the money out.

18 Q. Did you keep -- was the safe -- was the routine
19 practice of the store to lock the safe at night?

20 A. At night. After you put all that in, yes.

21 Q. Okay. Now, I need you back on the stand, I guess.
22 I may have to get you down in a minute.

23 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

24 But you told us about the routine practice in the
25 evening. Let's talk about the routine practice in the morning
26 for opening the business. Would you tell us what the routine
27 practice was for opening up in the morning?

28 A. Momma opened the store nearly every day, unless she
29 was sick or out of town or something. And then she got there

1 before 9:00. And she would unlock the front door and walk
2 about halfway back.

3 In that main section of the store, there's a panel of
4 lights on the wall, with the big switches. I suppose it's
5 called a breaker box or something. But anyway, that is where
6 all the switches were for the store.

7 But she would turn on the lights for that side of the
8 store and then walk on back to the back to her office and
9 unlock the safe and take out the accounts receivable ledger
10 and the receipt book and the deposit bag and the little, metal
11 tray that fit down inside the drawer and then carry them all
12 back up to the front office, the big u-shaped office and set
13 them on the counter and put the deposit bag at the back and
14 then the tray, the tray in the drawer.

15 Q. Okay. I suppose that a lot of those records that
16 were in the store you generated yourself probably, didn't you?

17 A. Yes, sir.

18 Q. Did you ever make --

19 A. Not that day. But yes, sir.

20 Q. Did you happen to in 1996 after, after the day --
21 after July 16 were you ever asked to, to help the
22 investigators or to go -- come there to the store and either
23 give them or let them look for some documentary evidence in
24 the store?

25 A. Yes, sir, I was.

26 Q. Let me show you a couple of pictures, first of all,
27 if I can. Miss Ballard, I am going to show you these small
28 photographs, State's Exhibit 34 for identification and State's
29 35. Would you just take a look at those and tell us what

1 those are, please?

2 A. They are photographs of the deposit bag lying open
3 up in the fabric swatches. The fabric swatch counter was
4 right outside, right on the -- well, if you are standing in
5 the u-shaped office, it was on the left side, right outside
6 the office. That is where all the fabric swatches were and
7 stuff like that. Certainly not where a deposit bag goes.

8 Q. Okay. It was -- are you saying that in the
9 photograph where it is shown it was out of its normal place?

10 A. Yes, sir.

11 Q. You can see the bag in the photographs.

12 A. Yes, sir.

13 Q. Is there anything else about the bag that's unusual,
14 other than the fact that it's just out of place over by the
15 carpet swatches?

16 A. It's wide open. I mean it's open.

17 Q. Okay. Do those photographs accurately depict what
18 is shown in them, State's 34 and 35?

19 A. Yes, sir.

20 MR. HILL: Your Honor, State's 35 has been
21 previously received and marked as evidence.

22 State's Exhibit 34 does not appear to have been
23 previously received as evidence. I move that it be
24 received at this time.

25 MR. DEGRUY: No objection.

26 THE COURT: I'll allow it to be admitted.

27 (A PHOTOGRAPH OF THE GRAY BANK BAG PREVIOUSLY MARKED
28 STATE'S EXHIBIT NUMBER 34 FOR IDENTIFICATION WAS ADMITTED INTO
29 EVIDENCE.)

1 Q. (By Mr. Hill:) Miss Ballard, I'm going to show you
2 what's been previously received into evidence as State's
3 Exhibit Number 36 for identification. You may -- it's in a
4 partially torn, brown paper bag, but you may remove that and
5 look at it, if you like.

6 And I'd like to have you tell the ladies and gentlemen of
7 the jury if you can identify that. If you can, tell them what
8 it is, please.

9 A. It's what I call the deposit bag. It's a Sunburst
10 bank bag.

11 Q. That was normally what the deposits were carried in.

12 A. Yes, sir.

13 Q. Or kept in.

14 A. Yes, sir.

15 Q. Would you open that up, please? Tell us if there is
16 anything in it.

17 A. (Opened the bag.)

18 Q. Is there something in it?

19 A. A deposit book.

20 Q. I couldn't hear you.

21 A. Deposit book.

22 Q. Would you open the deposit book and find the latest,
23 the last entry, if you would, please? Take a minute to do
24 that.

25 A. (Complied.)

26 Q. Do you see the last filled out form in there?

27 A. Yes, sir.

28 Q. Is it dated?

29 A. Yes, sir. 7-15-96.

1 Q. I'm sorry.

2 A. 7-15-96.

3 Q. 7-15.

4 A. Because that's the day's receipts it pertains too.
5 Yes, sir.

6 Q. What is the date on there?

7 A. The date that it -- at the top is 7-15-96. That's
8 the date which would match the check-up sheet date.

9 Q. Okay. Okay.

10 A. It's supposed to be that way.

11 Q. Okay.

12 A. I'm not talking about the bank date. I'm sorry. I
13 thought you meant -- Carmen's writing is what I thought you
14 were talking about.

15 Q. I tell you what. That was a confusing question.

16 A. Okay.

17 Q. Allow me to ask the question again. I needed to
18 look at it before I asked the question. Do you see some
19 handwriting on there?

20 A. Sir.

21 Q. Do you see some handwriting on there?

22 A. Yes, sir.

23 Q. Whose handwriting do you recognize?

24 A. Carmen's.

25 Q. And in the handwriting, is there a handwritten date
26 on there that you recognize?

27 A. That's 7-15.

28 Q. 7-15.

29 A. '96.

1 Q. Okay. And that's Carmen's writing; is that correct?

2 A. That's correct.

3 Q. Miss Rigby. Do you also see a bank date stamp with
4 a date on it?

5 A. Yes, sir.

6 Q. And what is the bank receipt date stamp? What does
7 that show?

8 A. July 16, 1996.

9 Q. Okay. Are you familiar with what the normal
10 procedures are for making bank deposits?

11 A. Yes, sir.

12 Q. And let's ask -- or let me ask and say that if you
13 have daily receipts come in, at the end of the day do you make
14 the deposit for your daily receipts that evening?

15 A. No, sir.

16 Q. When do you make the deposit, the regular deposit
17 for regular receipts?

18 A. The next morning after you open the store and do the
19 check-up sheet.

20 Q. I think that's basically all the questions I had for
21 that bank deposit book.

22 You see Carmen's writing on it. One other thing before I
23 pass it. Hold on to that for just a minute, and I'm going to
24 ask you another question about that.

25 Can you tell us, looking at that latest bank deposit
26 record that you have in your hand, what was the amount of that
27 last deposit?

28 A. \$1,238.86.

29 Q. Repeat that for me, please.

1 A. \$1,238.86.

2 Q. Okay. Thank you.

3 Now, I want to show you something else before I proceed.

4 Your Honor, I'm going to ask to have some exhibits
5 marked. I believe this is State's Exhibit 42-A. I would ask
6 that we go ahead and mark it now. I think it's corresponding
7 exhibit, State's Exhibit 42, has already been received.

8 THE COURT: We can have it marked.

9 (THE BLOW-UP OF THE DAILY CHECK-UP SHEET WAS MARKED
10 STATE'S EXHIBIT NUMBER 42 FOR IDENTIFICATION.)

11 MR. HILL: May it please the Court, Your Honor?
12 I've conferred with defense counsel, and I'm now offering
13 State's Exhibit 43, 44 - let me restate that - 42-A, 43-A
14 and 44-A and ask that they be received.

15 Counsel has advised me --

16 MR. DEGRUY: No objection.

17 MR. HILL: -- he has no objection.

18 THE COURT: I'll allow them to be admitted.

19 (THE BLOW-UP OF THE DAILY CHECK-UP SHEET PREVIOUSLY
20 MARKED STATE'S EXHIBIT NUMBER 42-A FOR IDENTIFICATION WAS
21 ADMITTED INTO EVIDENCE.)

22 (THE BLOW-UP OF CURTIS FLOWERS' TIME CARD PREVIOUSLY
23 MARKED STATE'S EXHIBIT NUMBER 43-A FOR IDENTIFICATION WAS
24 ADMITTED INTO EVIDENCE.)

25 (THE BLOW-UP OF A CHECK MADE PAYABLE TO CURTIS FLOWERS
26 PREVIOUSLY REFERRED TO AS STATE'S EXHIBIT NUMBER 44-A WAS
27 ADMITTED INTO EVIDENCE.)

28 Q. (By Mr. Hill:) Miss Ballard, first of all, I'm
29 going to hand you State's Exhibit Number 42. Would you take a

1 look at that, please? Just got a few questions to ask you
2 about that document.

3 A. (Complied.)

4 Q. Do you recognize it?

5 A. Yes, sir.

6 Q. Do you know what it is?

7 A. It's the check-up sheet for the day's business of
8 July 15, 1996.

9 Q. Okay. Is that the original?

10 A. Yes, sir.

11 Q. Does, does it indicate that there were any daily
12 receipts on that day?

13 A. On the 15th, yes. It shows a receipt on account and
14 the receipt for late charges and collected court costs.

15 Q. Okay. It's dated 7-15; is that right?

16 A. Yes, sir.

17 Q. All right. And when is one of these daily check-up
18 sheets prepared?

19 A. The daily check-up sheet is prepared the morning
20 after the close of business. So if it was for the 15th, it
21 would be prepared the next morning on the 16th.

22 Q. So can you tell us by the routine business practice
23 of Tardy's that a check-up sheet or daily tally sheet or
24 whatever for 7-15 of '96, that would be prepared the morning
25 of the 16th.

26 A. That's absolutely right.

27 Q. Is that correct? Okay. All right. Let's see here.

28 Miss Ballard, now, if you will -- I am going to put up
29 State's 42-A, which is an enlargement. Come down here, if you

1 will, Miss Ballard.

2 A. (Complied.) Yes, sir.

3 Q. You have in your hand -- I tell you what. Why don't
4 you just step right over here so everybody can see?

5 A. (Complied.)

6 Q. You have in your hand State's Exhibit Number 42.
7 That's the small one; right?

8 A. Correct.

9 Q. And I pointed your attention to 42-A. That is
10 simply an enlargement. Does that -- does that appear to be
11 correct to you?

12 A. Yes, sir.

13 Q. I believe you have, in fact, seen this chart before,
14 haven't you?

15 A. Yes, sir.

16 Q. I am going to ask you a few questions there. What
17 is the purpose for that piece of evidence? What do you -- why
18 is that kept or used as a financial record?

19 A. It has several, several purposes. The first part up
20 here is where you record the sales and the receipts on
21 account, anything that was collected on the day that you are
22 doing the sheet for. And then that makes up your deposit for
23 that day.

24 Then down at the bottom is the reconciliation of the
25 petty cash drawer. And over here is if there were any credit
26 memos to be posted to someone's account, they would be right
27 here in this section.

28 Over here on the far side is the list of cash. That's
29 the tally of the cash, the actual coins and currency in the --

1 in the drawer.

2 And then on the back of it, which you can't see there,
3 there is where it would be posted the cash and charge sales
4 for that day. (Indicated.)

5 Q. Okay. Now, this is blank on here; right?

6 A. It is blank. There were no sales on the 15th.
7 There were collections but not sales.

8 Q. Okay. Now, I asked you about the date awhile ago.
9 Would you just point to where this is dated, again, please, so
10 the jury can see that?

11 A. Right up here. 7-15-1996.

12 Q. And according to you, that would have been entered
13 in there on the morning of the 16th.

14 A. Correct.

15 Q. Okay. Now, does that show the store -- let's start
16 at the top and work down. It shows what store that goes for.

17 A. Well --

18 Q. At the very top line.

19 A. They had more than one store at different times, but
20 there was only one store left. So that's the Winona store.

21 Q. Okay. Do you recognize the handwriting on there?

22 A. That's Carmen's handwriting. It even says Carmen
23 right there. (Indicated.)

24 Q. Is there an entry on there about what the deposit
25 for the previous day's business amounted to?

26 A. This amount right here. Deposit for day \$1,238.86.

27 Q. Now, is that the amount of money that you read off
28 that deposit ticket?

29 A. Yes, it is.

1 Q. And that's important to me at this point. The
2 deposit ticket that you have got on the counter, State's
3 Exhibit 36, is that same amount that is right up there?

4 A. Yes.

5 Q. What does that tell you about when the deposit was
6 made, just looking from the daily sales report there? Does
7 that tell you when that deposit was made?

8 A. Well --

9 Q. It had to be on the morning of the 16th.

10 A. Well, I don't say that does, but the deposit slip
11 tells you when it was made.

12 Q. Okay. All right. Keeping in mind that the deposit
13 slip says it was deposited on the morning of July 16, wouldn't
14 that, the fact that deposit slip says it was, indicated that
15 it was done on the 16th, that would further indicate that
16 report that you are looking at right there was made on the
17 morning of the 16th; is that right?

18 A. Yes, sir.

19 Q. Okay. Can you look at that, at that chart and
20 because of your knowledge of the way the store's business was
21 handled, can you look at that document and tell us how much
22 money was in the store on the morning of the robbery and the
23 murder?

24 A. Yes, sir, I can.

25 Q. Okay. Would you point out, please, and explain to
26 us where it says list of cash is what I would like to go to
27 first, if we could.

28 A. This thing is sort of --

29 Q. Do you see that entry on there?

1 A. It's curved, and I can barely see it.

2 Q. Okay.

3 A. It's right here. It's a list of cash. And that's
4 how you knew -- this is your petty cash reconciliation right
5 here. (Indicated.)

6 Q. Okay.

7 A. So the cash on-hand, the normal balance for the cash
8 drawer, which normal balance just means what is supposed to be
9 there, the operating money, the normal operating money. There
10 are no paid outs. That means there is nothing that is in the
11 drawer that is unreimbursed, like for cokes or lunch or
12 whatever. There is nothing missing right here.

13 And then that totals up to the normal balance, which
14 would be \$300. Then over here, the list of cash, there is a
15 minus 100 right there. Okay. That's so you can reconcile
16 back to the \$300. The normal balance of \$300 is altered by
17 this \$100 right here, which means an extra \$100 from somewhere
18 else was in, in this cash right here.

19 And then is the larger bills. The tray does not have a
20 whole lot of slots in it that weren't used so -- by other
21 stuff or keys or whatever. So the one slot had anything like
22 10's, 20's or larger bills. And that is the \$260. They
23 always went in the same order. So that is how I know. And
24 then these would be the 5's. These would be the 1's. And
25 that's the quarters, dimes, nickels and pennies.

26 And so the normal balance in the drawer is \$300, but
27 there is actually \$400 in that day, because there is an extra
28 100 at the top.

29 Q. Now, that extra \$100 was what, Miss Ballard? What

1 was that extra 100 for?

2 A. It's the late charges out of the little box that's
3 on the counter.

4 Q. Okay. Now, you stay right there where you are and
5 use your pointer. You said there were three slots available.

6 A. For currency. Yes.

7 Q. For currency. Use your pointer and point those
8 three slots out from where you stand, if you will.

9 A. Okay.

10 Q. Aim it. Can you aim it?

11 A. It would be this one here right here where that
12 little white sheet of paper is and that one and that one where
13 the bills would be. (Indicated.)

14 Q. And, and you noted on your report where the 260 that
15 was the larger bills, the 10's and 20's.

16 A. Right.

17 Q. Where would they normally be kept?

18 A. Where that white sheet of paper is.

19 Q. And the other two currency slots here.

20 A. The 5's and then the 1's.

21 Q. Okay. And tell us, if you will, what is that white
22 piece of paper?

23 A. It's a little -- these little Serta scratch pads,
24 note pads. And that's what they would use to write little
25 notes at the store. And that's a Serta -- torn off piece of a
26 Serta scratch pad that has the late charges of \$100 written on
27 it.

28 Q. Okay.

29 A. Which is how I know what that \$100 was.

1 Q. So when you -- when you finally got a chance to look
2 at that you knew that that had \$100 on it.

3 A. That is how -- that is how I knew there was a extra
4 \$100 in that drawer, because of that saying that the late
5 charges that would normally be in the box on the counter,
6 wherever --

7 Q. I think we have -- can you see it? Can you see the
8 late charge box in this?

9 A. Right there. (Indicated.)

10 Q. Okay. I am going to put this up for just a minute.
11 You said there was a box that normally had the money in it.

12 A. This is the late charge box right there. I can't
13 explain to you why, but as long as I can remember when people
14 paid late charges they went in that box. And then it was
15 written on the receipt.

16 And then the late charges stayed in that box until it
17 accumulated to be a fair amount of money, which \$100 would
18 have been a pretty good bit of money. So then it was pulled
19 out and put in here. Then it was deposited later on in the
20 month.

21 Q. Okay. You have just made reference, for the record,
22 to 28-A showing the late charge box on 28-A. And you said, if
23 I understood you correctly, that that white piece of paper in
24 the cash drawer indicated that this \$100 amount was in the
25 cash drawer and that it was late charge money out of that box.

26 A. Yes, sir.

27 Q. Okay. Miss Ballard, if you added up all the money
28 shown in the daily cash report, can you tell from looking at
29 that how much money was in the cash register on the morning

1 of, after it had been opened and placed in the cash drawer as
2 you've seen there?

3 Can you tell us how much money would have been there when
4 they opened up that morning, when they took the drawer out of
5 the safe, put it in the -- in the cash drawer at the counter?
6 Can you tell us how much money would have been in there by
7 looking at that chart?

8 A. After Carmen wrote up the deposit, then what was
9 left in that drawer was \$400.

10 Q. Okay. Now, you can see we've still got the chart of
11 the cash drawer open there. It appears that there is some
12 change, some coins left in there; is that right?

13 A. Yes, sir.

14 Q. Did you have an occasion to know exactly how much
15 money was stolen from the store that morning? By looking at
16 the chart and the cash drawer, were you able to figure out how
17 much money exactly was stolen out of the store from the cash
18 register?

19 A. Yes, sir. The currency is what is missing. So it's
20 the, the 260, the 95 and the 34, which makes \$389 that's
21 stolen.

22 Q. Okay. All right. And the normal operating balance
23 was 300.

24 A. Correct.

25 Q. Okay. And because there was 400 in there --

26 A. Right.

27 Q. -- and because they didn't take the, the nickels,
28 dimes, pennies and quarters, that amount you are saying came
29 to \$389; is that right?

1 A. Yes, sir.

2 Q. I am going to let you get back on the stand now if
3 you will, please, ma'am.

4 A. (Complied.)

5 (A LOUD SIREN WAS HEARD.)

6 It's the monthly siren.

7 Q. Miss Ballard, I am going to call your attention to
8 State's Exhibit 28-A, ask you to look at this chart. I tell
9 you what, if you don't mind getting up and down a little bit,
10 come on down here with me.

11 A. (Complied.)

12 Q. Let me ask you to do that. It may be easier to see
13 down here. Can you tell us -- tell us what that is, please?

14 A. Where do you want me?

15 Q. Right over there will be good.

16 A. That is what I call the front office. It's sort of
17 a wooden, built thing. And this would be Carmen's desk over
18 here. And the cash drawer and the receipt -- I mean the
19 accounts receivable ledger and the receipt book and the late
20 charge book.

21 Q. Just looking at that photograph, is there anything
22 that is just real odd that jumps out at you about, about
23 something in that photograph?

24 A. (Pointed.)

25 Q. Do you know what that item is you are pointing to?
26 Tell us what you are pointing to.

27 A. This right here in the middle of the floor is
28 Carmen's purse.

29 Q. Have you ever seen her leave her purse in the middle

1 of the floor?

2 A. No, sir.

3 Q. In all the years you've worked and been around here,
4 have you ever seen her to leave her purse in the middle of the
5 floor?

6 A. No, sir.

7 Q. Okay. Why don't you just stay right there for a
8 minute?

9 I am going to show you State's Exhibit Number 43-A. Do
10 you know what that is? Have you seen that before? Let me ask
11 you this - have you seen that before?

12 A. Yes, sir.

13 Q. Do you recognize what it purports to be?

14 A. It's Curtis Flowers' timecard. We didn't have a
15 time clock or anything. So we had just handwritten timecards.

16 Q. If you don't mind, would you explain to us what the
17 notations on there are, please?

18 A. This is momma's writing. And it says Curtis
19 Flowers. Then it has Saturday, June 29, 1996.

20 Q. That's the date he started working.

21 A. That's the date for the timecard. Yes.

22 Q. Okay.

23 A. And then he was off on Monday. And then those are
24 his hours for Tuesday and Wednesday. And then there is
25 momma's note that she gave him \$30 cash on June 29 as an
26 advance.

27 Then there is her total of what his time is. It says he
28 worked 17 hours and 55 minutes, which is 17 11/12 hours.

29 Q. Okay. So you said that is your momma's handwriting,

1 and that appears to be a computation of the time that he was
2 given credit for working; is that right?

3 A. Yes, sir. That's what it is.

4 Q. I've got up here in front of you State's Exhibit 44.
5 Can you tell us what that is, please?

6 A. Yes, sir. That's Curtis Flowers' paycheck.

7 Q. And if you will, will you point out to us whether
8 that indicates that that's a check made out for a certain
9 number of hours? Do you see the hourly time computation on
10 there?

11 A. It's right here, 17 11/12 hours.

12 Q. Check is made out for how much money?

13 A. \$82.58.

14 Q. And it appears to be signed Bertha Marie Tardy.

15 A. Yes, sir.

16 Q. Is that your momma's signature?

17 A. Yes, sir.

18 Q. Okay. I am going to let you -- for now I am going
19 to let you get back up there for now, if you don't mind,
20 please, Miss Ballard.

21 A. (Complied.)

22 Q. Miss Ballard, were -- I mentioned earlier in my
23 questioning that you provided some documents to the
24 investigators, I think, Mr. Matthews, Mr. Miller, Mr. Johnson.
25 Some of them were asking you if there was any records there
26 that you could get for them that, that pertain to Curtis
27 Flowers. Did you -- do you know where the timecard was? Did
28 you find it and give it to them, or did they find it on their
29 own? Or can you help us with that?

1 A. I found it for them, with them, in momma's office,
2 the very, very back in her office. It was lying on her desk
3 by her phone.

4 Q. Okay. What about the check?

5 A. They were right there together.

6 Q. The check and the timecard --

7 A. Yes, sir.

8 Q. -- were in your momma's office.

9 A. Yes, sir.

10 Q. Okay. I have here State's Exhibit 38. Is that the
11 photo of your mother's office that you were talking about?

12 A. Yes, sir.

13 Q. Could you just point with your pointer and indicate
14 to us where you found the timecard and the check, please?

15 A. They were way over here by the phone.

16 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

17 Way over here by the phone.

18 Q. Okay. Thank you, ma'am.

19 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

20 What about this yellow piece of paper? Did you find that
21 for them as well --

22 A. Yes, sir.

23 Q. -- or explain to them what it was?

24 A. Yes, sir.

25 Q. Did you kind of go over with them, as you have with
26 us, what this meant and the implications of this yellow piece
27 of paper?

28 A. Yes, sir.

29 Q. Now, one point in the investigation did the subject

1 of some batteries that had been purchased from Coast to
2 Coast -- I guess that was like a hardware store right up from
3 the furniture store.

4 A. Yes, sir.

5 Q. A couple doors up. Is that right?

6 A. Yes, sir.

7 Q. Did you happen to see a receipt from Coast to Coast
8 to Tardy Furniture?

9 A. I saw it. Yes, sir. A ticket.

10 Q. I take it that the -- what was the amount on that?
11 Do you remember?

12 A. It's 400-and-something dollars. I don't remember
13 off the top of my head.

14 Q. Would 406.17 -- does that sound about right?

15 A. Yes, sir.

16 Q. As the amount of money that they, Coast to Coast,
17 billed Tardy's?

18 A. Yes, sir. It was over \$400 is all I remember.

19 Q. So I take it that means then that Tardy Furniture
20 store had to pay Coast to Coast for the broken batteries; is
21 that right?

22 A. Yes, sir.

23 Q. \$406. The money that came out of the store that was
24 missing or taken from the store that morning, if you would,
25 please tell us who that money belonged to?

26 A. It belonged to my mother, Bertha Tardy.

27 Q. When we were looking at the timecard awhile ago, you
28 indicated there was a notation on there that your mother had
29 given him some money or given Curtis some money; is that

1 right?

2 A. Yes, sir. She paid him \$30 as an advance.

3 Q. Would you just point out where that was, please,
4 where the \$30 is marked on there?

5 (THE WITNESS STEPPED DOWN FROM THE WITNESS STAND.)

6 A. It's right here. (Indicated.)

7 Q. Right there.

8 A. Yes, sir.

9 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

10 Q. Okay. What were Carmen's duties? What duties did
11 your mother assign to Miss Rigby?

12 A. She was the credit manager, and she was a sales
13 person. She went to furniture market to help buy furniture.
14 She waited on customers. She did collections on accounts.
15 She wrote late letters. She did the bookkeeping. She did --
16 she would do the daily check-up sheets.

17 Q. Did she do the janitorial work? Or did she clean --
18 do the cleaning work or anything?

19 A. No, sir. I mean...

20 Q. Miss Ballard, after -- I'm assuming that at some
21 point in time y'all were allowed back into the store to resume
22 business. I say that; is that correct?

23 A. Yes, sir.

24 Q. After you were allowed, you and your family, allowed
25 back in the store, did y'all go about the store looking and
26 cleaning and examining what was in there?

27 A. Yes, sir.

28 Q. No money or anything like that that was missing was
29 ever found on the premises, was it?

1 A. No, sir.

2 Q. Okay.

3 MR. HILL: Your Honor, we have no further
4 questions from the witness.

5 MR. DEGRUY: Your Honor, we have no questions
6 of the witness.

7 THE COURT: Miss Ballard, you may step down.

8 And I assume she may be testifying some other time,
9 but is she excused right now as a witness?

10 MR. EVANS: Yes, sir.

11 THE WITNESS: Am I finally excused so that I
12 can sit in the courtroom?

13 THE COURT: Yes, ma'am.

14 The State have any other witnesses?

15 MR. EVANS: Your Honor, we will be able to
16 announce after lunch, if that is okay.

17 THE COURT: Ladies and gentlemen, we will take
18 a hour recess.

19 I'll ask you - like I have and you are probably
20 tired of hearing it, but I can't stress it enough - that
21 you are not to discuss the case with anyone or among
22 yourselves or start forming any opinions about the case
23 until you have heard all the evidence.

24 If you will, step in the jury room for a few minutes
25 until everybody clears out. They will show you to lunch,
26 and we will resume in an hour.

27 (COURT RECESSED FOR THE NOON HOUR.)

28 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
29 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.

1 PROCEEDINGS WERE AS FOLLOWS:)

2 (A DISCUSSION WAS HAD THAT WAS REPORTED BUT NOT REQUESTED
3 TO BE TRANSCRIBED HEREIN.)

4 THE COURT: You can bring them out.

5 (THE JURY RETURNED TO THE COURTROOM.)

6 THE COURT: Okay. Court will come back to
7 order.

8 MR. EVANS: Your Honor, at this point the State
9 of Mississippi will rest on its case in chief.

10 THE COURT: Ladies and gentlemen of the jury,
11 the State has rested their case. So I need to take up a
12 couple matters right quick with counsel; then we will
13 proceed.

14 So if you will step back in the jury room for a few
15 moments, then we will resume.

16 (THE JURY LEFT THE COURTROOM.)

17 MR. DEGRUY: Your Honor, at this time the
18 defense would move for a directed verdict of not guilty
19 on each count.

20 THE COURT: The Court considering the evidence
21 in the light most favorable to the State of Mississippi
22 finds there to be jury issues and therefore will deny the
23 directed verdict.

24 Are y'all ready to proceed with your first witness?

25 MR. CARTER: Yes, sir.

26 THE COURT: Okay. You can bring the jury back
27 in.

28 (THE JURY RETURNED TO THE COURTROOM.)

29 MR. CARTER: Wayne Miller. Miller.

1 Can somebody get them for us?

2 THE COURT: They have.

3 (THE WITNESS ENTERED THE COURTROOM.)

4 Mr. Miller, if you will, come around, face the
5 bench, raise your right hand and take the oath.

6 Do you solemnly swear or affirm the testimony you
7 give in this case will be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE COURT: Come around, please, and have a
11 seat.

12 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

13 THE COURT: State your name. State your name,
14 please, for the record.

15 THE WITNESS: Horace Wayne Miller.

16 THE COURT: Mr. Carter, you may proceed.

17 HORACE WAYNE MILLER, Called on behalf of the Defendant,
18 having been duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION BY MR. CARTER:

20 Q. Where do you work at this time, Mr. Miller?

21 A. Well, I'm retired from the Mississippi Highway
22 Patrol, and I do investigative work as kind of an independent.

23 Q. How long were you with the Mississippi Highway
24 Patrol?

25 A. Thirty-five years.

26 Q. Thirty-five years. And tell the ladies and
27 gentlemen what capacity you worked in during those 35 years.
28 In other words, what position is there --

29 A. Well, I was a uniformed patrolman. And then in --

1 sometime in the '80's I was promoted to an investigator. And
2 that's what I -- that's the position I held when I retired in
3 '99.

4 Q. Okay. And at some point you got a call about an
5 incident occurring at Tardy's Furniture store in 1996; is that
6 correct?

7 A. That is correct.

8 Q. And upon getting that call, I imagine you got to
9 Winona as quickly as you could.

10 A. I did. I was in Ruleville, Mississippi, working on
11 a church fire of a church, and I was with the federal D.E.A.
12 investigators when I got that call. And then I immediately
13 came to Winona.

14 Q. Okay. Do you recall about what time you got to
15 Winona?

16 A. Something around 10:00, 10:30. I can't say exactly
17 what time I got there, because I don't -- I don't have
18 anything to refer that to.

19 Q. Okay. Did you get there before Mr. Matthews did?

20 A. No, I did not.

21 Q. So if he said he got there around 11:00, would it be
22 fair to say you got there a little bit after --

23 A. I got there a little bit after that, if he got there
24 at 11:00. He was already there when I got there.

25 Q. At the time who had the highest rank, you or Mr.
26 Matthews?

27 A. I was a lieutenant, and he was master sergeant.

28 Q. For those who don't know, lieutenant is a high rank,
29 the next rank up from --

1 A. It is one grade higher than the master sergeant.

2 Q. And initially, could you tell the ladies and
3 gentlemen of the jury what you did once you got there to the
4 scene of the incident?

5 A. Well, pretty much when I first got there, the crime
6 scene was already secured by the police department. And Mr.
7 Matthews was already interviewing someone. I don't know. I
8 don't recall who he was talking to at that time.

9 Q. Okay. And were there other people there that --

10 A. Chief Hargrove was there. Several -- I know one
11 uniform highway patrol officer was there.

12 Q. Did you go inside the building?

13 A. I did.

14 Q. Did you do any particular work once you went inside?

15 A. I videoed the crime scene.

16 Q. You videoed it.

17 A. I took the videotape of the crime scene. And of
18 course, we were waiting on the crime scene investigators to
19 get there, which was Melissa Schoene, Schoene.

20 Q. Did anyone ask you to videotape, or you did that
21 because you do that --

22 A. Well, that was kind of a procedure of things, and
23 especially of a crime of that magnitude. We had four -- we
24 had three bodies laying on the floor and one large puddle of
25 blood which was from the victim that had been transported to
26 the hospital.

27 Q. Do you know who was in charge of the investigation
28 or crime scene until the Mississippi crime lab got there?

29 A. Well, we assist. We were assisting the chief of

1 police. They are the ones that asked for our assistance.

2 Q. Okay. And once y'all got there, you and Mr.
3 Matthews took over.

4 A. Well, no. We didn't take over the investigation.
5 That was still under the police chief's authority.

6 Q. Okay.

7 A. We were still assisting him.

8 Q. Okay. Besides videotaping, did you do anything
9 else?

10 A. At the scene?

11 Q. Yes, sir.

12 A. Well, I was there to make sure that none of the
13 evidence was destroyed or, or even tampered with or anything
14 else happened to -- you know, that anything happened to
15 anything, which it didn't.

16 Q. Okay. How did you do that?

17 A. Well, I was right there inside the store.

18 Q. Okay. So you were watching and you were --

19 A. Right. And I kept -- I kept anybody from coming
20 around the area that we were trying to preserve.

21 Q. Okay. Did Chief Hargrove ask you to do that?

22 A. Well, it was just kind of common sense to protect
23 all that. It was just part of the -- you know, just part of
24 the investigation that we were trained to do is to, to
25 preserve any evidence that was there.

26 Q. Right. And did Chief Hargrove tell you that he
27 called you because he felt -- for lack of a better word, that
28 he by himself or with his agency, he was inadequate at the
29 time to actually handle that crime scene?

1 A. Generally the Bureau of Investigations is, is
2 called, because we have more resources and direct contact with
3 other people that would assist us or assist in the
4 investigation.

5 Q. Yes, sir. And I take that to say that usually you
6 all are better equipped and trained to handle these situations
7 than small police agencies.

8 A. We have more resources. Yes, sir.

9 Q. And resources include better, better training,
10 personnel. Is that fair to say?

11 A. Well, if you want to call it that, but that doesn't
12 mean that one investigator is any better than another.

13 Q. I understand. Now, I think you are originally from
14 Winona; is that correct?

15 A. That is correct. As a matter of fact, I used to be
16 chief deputy here in Montgomery County back in the '60's.

17 Q. Okay. Now, did you take any pictures also?

18 A. Photographs?

19 Q. Yes, sir.

20 A. At the scene?

21 Q. At the scene or at a --

22 A. I did.

23 Q. You did. Okay.

24 A. Well, let me correct myself on that. I don't know
25 whether -- I don't recall taking any photographs.

26 Q. Okay. Now, you said --

27 A. I took the videotape.

28 Q. Okay. No photographs as far as you --

29 A. I don't recall taking any at this point, but I may

1 have.

2 Q. Now, did you make any, any notes at the scene, any
3 narratives?

4 A. No, I did not.

5 Q. Now, did you take any pictures of any other -- at
6 any other place that might have contained some evidence that
7 is connected to the crime?

8 A. I may have taken photographs. I don't know whether
9 I photographed Doyle Simpson's car. I've seen those
10 photographs. I'm not sure if I initialed those as being the
11 one taking them or not.

12 Q. Okay.

13 A. I have not seen a lot of this evidence in quite
14 awhile.

15 Q. At what point did you think Mr. Flowers was a
16 suspect?

17 A. Well, it was right shortly -- I think -- I think
18 Curtis Flowers was a suspect before I ever arrived on the
19 scene. Because in order to do a gunshot residue, which we did
20 and got a positive result on, you have to do that within a
21 short period of time.

22 And I was the one that, that had a gunshot residue kit in
23 my car. And I gave that to Sergeant Matthews, and he did the
24 gunshot residue. And you have to do that very quickly after
25 someone fires a firearm.

26 Q. Okay. And you are talking about quickly.

27 A. Within five, six, five, six, four, five, six hours.
28 Different people say different amount of time.

29 Q. But as time passes least likely to actually find

1 gunpowder. That is what you are getting to, I believe.

2 A. Yeah. After awhile, after you fired a firearm
3 you -- the residue dissipates from your -- from your hand.
4 And in this particular case, it had not because we got a
5 positive result on it.

6 Q. Okay. Were you in on the -- were you there when the
7 gunshot residue test was actually done?

8 A. I was in the room. Yes.

9 Q. Mr. Johnson was in the room also; is that correct?

10 A. I can't answer that right now. He probably was. He
11 may have been. I don't know that he was.

12 Q. Okay. Did you talk to Mr. Flowers? Did you greet
13 him?

14 A. No, I did not.

15 Q. Okay. Do you know whether anybody else greeted him?

16 A. No, I --

17 Q. You didn't shake his hand, did you?

18 A. I didn't.

19 Q. Now, you took some pictures of Mr. Flowers that day;
20 is that correct?

21 A. I don't know that I -- I may have. If you have some
22 photographs with my initials on them, I took those
23 photographs.

24 Q. Okay. Did you review any notes before you came here
25 to testify today?

26 A. Did I?

27 Q. Yes, sir.

28 A. No, I really haven't.

29 Q. Okay. But you do know that somebody took some

1 pictures though of Mr. Flowers that day. Is that fair to say?

2 A. I don't know whether that is fair to say or not, but
3 I'm sure somebody took photographs of Mr. Flowers.

4 Q. Okay. You put together a photo line-up with Mr.
5 Flowers and several other people; is that correct?

6 A. That is correct.

7 Q. Okay. Where did that picture of Mr. Flowers come
8 from?

9 A. I, I can't tell you exactly where it came from. I
10 don't know. Someone took the photograph of him, and it was
11 probably taken that day of the 16th.

12 Q. Whose job -- I'm sorry. Did anyone assign you the
13 responsibility of putting together photo line-up?

14 A. I was -- we knew that Porky Collins was a witness of
15 seeing someone in front of Tardy's Furniture just prior to the
16 homicides. And I put -- I put, put the photo line-up together
17 with six photographs.

18 Q. Need some water?

19 A. Six photographs.

20 Q. Do you need some water?

21 A. No, I'm fine. I'm fine.

22 Q. Okay.

23 A. And by doing that Mr. Flowers was one of those,
24 because he was a suspect.

25 Q. All right. Now, my question -- and I don't want to
26 stop you before you answer. So if you don't understand, let
27 me know. Even if you don't understand, I'll wait till you
28 finish saying. Did you put that photo line-up together at
29 someone's request, another individual's request? Or did you

1 put it together based on your own intuition or idea that it
2 needed to be done?

3 A. I knew that we were going to let him look at a photo
4 spread. And in order to do that, I had to put one together
5 because --

6 Q. Right.

7 A. I came to Winona to show Mr. Collins this photo
8 line-up. And it consisted of six black males. And Curtis
9 Flowers was one of those.

10 Q. So you put the photo line-up together on your own
11 volition. You decided to put it together. Nobody asked you
12 to do it; is that correct?

13 A. I believe John Johnson called me and said that we
14 needed to get a photo line-up so Porky Collins could look at
15 that and --

16 Q. Okay.

17 A. -- in doing that, I had to get the photo line-up.

18 Q. Okay. So Mr. Johnson --

19 A. He was present when Porky Collins identified Curtis
20 Flowers as the person he saw in front of Tardy's that morning.

21 Q. Now, when you put the photo line-up together, how
22 many pictures of Mr. Flowers did you have? Do you recall?

23 A. Well, we -- I had some photographs that, that was
24 furnished to me by the highway patrol headquarters driver's
25 license division. And these were just paper copies that were
26 not very, very good photographs. They had faxed them to me, I
27 think. And by the time they sent them from headquarters on
28 the fax, fax machine, they had lost their value.

29 Q. Okay. How many pictures did you have of Curtis

1 Flowers to choose from?

2 A. How many photographs did I have?

3 Q. Yes, sir. Of Curtis Flowers.

4 A. Well, outside of the one from driver's license,
5 that's one. And then I had one more.

6 Q. So you had three, is that...

7 A. Two.

8 Q. Two. Okay. Two.

9 A. That I had.

10 Q. I hate to belabor this part, but were you aware of
11 any other pictures of Mr. Flowers that you didn't have?

12 A. No.

13 Q. Were you aware of the --

14 A. I was not aware of any more.

15 Q. Now, at some point, if you are -- isn't it fair to
16 say if you are going to put together a photo line-up then it
17 needs to be based upon some kind of description of a suspect?
18 What description did you have of Mr. Flowers, if any?

19 A. Well, you are not going to make a photo line-up that
20 everybody looks the same. I mean you are not going to put six
21 pictures of the suspect in there.

22 Q. I understand that. Really wasn't my question
23 though.

24 A. Okay. Well, I am misunderstanding.

25 Q. I apologize if I confused you. Any time you are not
26 sure about something, just let me know, and I'll try to
27 rephrase that.

28 Now, I said before you put together the photo line-up, in
29 order to make a photo line-up, don't you have to have a

1 description of a suspect to start from?

2 A. Right. We had that.

3 Q. Okay. And what is it about the description that you
4 have to comply with? What is it about the person in the
5 line-up that is significant?

6 A. Well, it's kind of in general description of, of
7 that one person. And you get the other five that would be
8 black males, not necessarily dark complicated, light
9 complected, but just a mixture of all.

10 Q. Don't you have to have some features of the suspect?

11 A. Well, they do. Every one of them in that photo
12 line-up has some characteristics as Mr. Flowers.

13 Q. Okay. And to be characteristic, more than just
14 being a black male; is that correct?

15 A. Yeah. But not -- I mean not really that close. You
16 just have the photographs. And there is nothing suggestive
17 about it, of a photo line-up, that you are showing the
18 witness. He either knows the suspect of what he saw or he
19 doesn't. It is that simple.

20 Q. So let me make sure I understand you. So you are
21 telling us that when you do a photo line-up, the fillers, the
22 other persons, the non-suspect, fillers or individuals that
23 you put in the line-up, you are telling us that they don't
24 have to share any common characteristics to the suspect. Is
25 that what you are saying?

26 A. They, they do. The ones in that photo line-up do
27 share.

28 Q. I'm not talking about the photo line-up yet. I am
29 going to get to it.

1 A. Okay.

2 Q. But what, what, what I'm saying is you mentioned
3 suggestibility, that I hadn't even mentioned yet.

4 A. Right. I know.

5 Q. So that is a key phrase. So in other words, when
6 you do a photo line-up, there isn't supposed to be anything
7 about the suspect that would make a person -- that would make
8 the suspect stand out in the photo array; is that correct?

9 A. That's correct.

10 Q. Now, I may jump around a bit, and I apologize for
11 that.

12 May I approach the witness, Your Honor?

13 THE COURT: You may.

14 Q. Mr. Miller, I pass you S-128 and ask you to look at
15 it and tell me whether you can identify that.

16 A. I can.

17 Q. And what is it?

18 A. It should have my initials on it, on 8-24 of 1996.

19 Q. Okay.

20 MR. CARTER: Your Honor, may I pass this to the
21 jury --

22 THE COURT: You may.

23 MR. CARTER: -- to look at it as we continue?

24 Your Honor, I need a moment to let everybody see it
25 before I continue.

26 I guess I can ask a few questions while y'all are
27 looking.

28 Q. That particular photo of Mr. Flowers, it didn't come
29 from his driver's license, did it?

1 A. No, that did not.

2 Q. And there is nothing -- was there any reason you
3 didn't use the one off the driver's license?

4 A. Well, generally that's not -- well, I don't know why
5 I didn't use that.

6 Q. Now, isn't it a fact that in that particular line-up
7 Mr. Flowers' head is bigger than everybody else's?

8 A. I think maybe the, the -- I don't think that. No, I
9 don't. It may appear to be on that photograph spread. But a
10 lot of that is from the distance that the photograph may have
11 been taken from.

12 Q. We are talking about the picture. And Mr. Flowers'
13 head is not bigger on that picture. Is that -- is that what
14 you are telling us?

15 A. I'm not looking at the picture now.

16 Q. Okay. I'll let you have it back in a second.

17 Now, you --

18 (THE BAILIFF PUT THE EXHIBIT ON THE TABLE.)

19 Do you want to see it again, Mr. Miller? You don't have
20 to if you don't want to. Do you need to see it again?

21 A. What question are you asking?

22 Q. I'm asking if his head is bigger on this photo
23 line-up than everyone else's, the picture of him?

24 A. Well, it may be. His head may be larger.

25 Q. Well, is the picture big? That is what I mean.

26 A. The picture is --

27 Q. I apologize for the head part. The picture of him
28 is larger than everyone else.

29 A. I don't think the picture is any larger. I think

1 maybe the photograph was taken with -- of him a little closer
2 than some of the others.

3 Q. Doesn't that make --

4 A. These are all mugshots from the jail.

5 Q. Yes, sir.

6 A. And they stand them in a certain place with the
7 photographs, with the camera already set up. And I don't
8 think Curtis Flowers was in the same distance from the camera
9 as they were.

10 Q. Okay. Regardless of how it was taken or what
11 explanation exists, now, Mr. Miller, if you are looking at
12 Number 3 here --

13 A. Okay.

14 Q. -- and Number 4. So you are testifying that the
15 picture of Mr. Flowers' face isn't larger than the gentleman
16 in picture Number 3.

17 A. It is probably larger.

18 Q. Probably. Just probably. It may not be. Is that
19 what you are saying?

20 A. It is larger.

21 Q. Okay. And if you look at the face in Number 6,
22 isn't it true also that Mr. Flowers' face or the picture of
23 Mr. Flowers shows a closer-up of him than in Number 6?

24 A. Yes, I'd say that.

25 Q. And isn't it fair to also say that Mr. Flowers is
26 larger than the picture or the face in Number 2?

27 A. I don't think Mr. Collins -- all Mr. Collins did was
28 shown that, and he said that is the man.

29 Q. I object to you saying what Mr. Collins --

1 MR. HILL: Objection. Let him answer the
2 question.

3 THE COURT: Well, that wasn't responsive to the
4 question that was asked.

5 A. I'm telling you the photograph is taken closer than
6 these other five subjects.

7 Q. So that means the picture of Mr. Flowers is larger
8 than the others; correct?

9 A. It, it appears to be larger on there. Yes.

10 Q. Okay. And, and since it is larger, that makes it
11 stand out; is that correct?

12 A. If you want to say it makes it stand out a little
13 more than the other five, but it doesn't change anything.

14 Q. I realize you think that, Mr. Miller.

15 MR. EVANS: Object to him arguing with the
16 witness, Your Honor.

17 THE COURT: I'll sustain.

18 Q. (By Mr. Carter:) Mr. Miller, I, I don't intend to
19 argue with you. I really don't.

20 How many line-ups did you show Mr. Collins? Do you
21 recall?

22 A. I think two were shown to him.

23 Q. Okay. And were they shown the same day?

24 A. Not looking at any reference, I, I would say they
25 probably were.

26 MR. CARTER: May I approach the witness again,
27 Your Honor?

28 THE COURT: You may.

29 Q. (By Mr. Carter:) Do you recognize that? Can you

1 identify that for us?

2 A. I can. That's some notes that I took whereas Mr.
3 Collins identified Curtis Flowers.

4 Q. But that is not all he did, is it?

5 A. (No response.)

6 Q. What did he do before he identified Mr. Flowers?

7 A. Mr. Collins was shown the first photo line-up, was
8 unable to identify. But said Number 1 and Number 3 looked
9 like the guy he saw on 7-16 of '96.

10 Q. Is Number 1 or Number 3 Mr. Flowers?

11 A. Say it again.

12 Q. Is Number 1 or Number 3 Mr. Flowers?

13 A. That is not the same photograph. That is not the
14 same photo line-up.

15 Q. Do you have that one?

16 A. I don't have it.

17 Q. But so you are saying there is a second photo
18 line-up. And you made that one. Is that correct? Did you
19 make it?

20 A. Yeah, I did.

21 Q. I am looking at your notes here. I don't see
22 anything in your note that says this is not the line-up. Help
23 me out. Is there something in your note that says this is not
24 the line-up?

25 A. There's another line-up. There is another photo
26 line-up, but I don't know where that is. I don't know whether
27 that is in evidence or not.

28 Q. Is there something in this statement that says this
29 is not the line-up that we are talking about?

1 A. Well, let me look in the statement again. In the
2 first part, it does not. And in the second part of my notes,
3 the second line-up was. Mr. Collins indicated that Photo
4 Number 4 was the guy he saw in front of Tardy's on July 16 of
5 1996 at approximately 9:45 to 9:55 a.m. And that's what he
6 said. I mean that is who he identified as Mr. Flowers.

7 Q. Okay. Do you recall such as there was another
8 line-up we don't have here?

9 A. I think that is the one I am talking about, the
10 photo, the driver's license photos that were not of good
11 quality.

12 Q. Okay. Do you know who were in this other photo
13 line-up that y'all had? Tell us something about it. Who was
14 in it? Was Mr. Flowers in it?

15 A. Mr. Flowers was in it.

16 Q. Okay. Mr. --

17 A. I, I don't have that. I'm not --

18 Q. Let me try not to confuse anyone.

19 Okay. So we know there is another one.

20 A. That is the one that Mr. Collins identified as
21 Curtis Flowers being the one that he saw in front of Tardy's
22 on the morning of the 16th of July.

23 Q. So there is another photo line-up. Is Mr. Flowers
24 in that other line-up, photo line-up?

25 A. I can't answer that, because I don't -- I don't have
26 that. I don't know. I don't have the one that you are
27 talking about.

28 Q. Now, Mr. Miller, so you are saying you might have
29 shown another photo line-up that --

1 A. It would be just like that one right there, but I
2 don't know.

3 Q. You might have shown him another one that didn't
4 even have Mr. Flowers in it.

5 A. Right.

6 Q. And since we don't have it and we don't have any
7 notes that tell us who was in it, Mr. Flowers could have been
8 in it, couldn't he, the other line-up?

9 A. No. I don't think -- I don't think that other one
10 is made just like that one with the regular photo line-up. I
11 thought that other one was in evidence, but...

12 Q. Well, let me say, apparently it isn't.

13 Now, Mr. Miller, why do we -- why are police officers
14 required to keep copious, very good notes? Isn't it because
15 as time pass, memories fade? It is unlikely to remember what
16 happened as time passes. And notes would be something you
17 could go back and look at and refresh your memory. Isn't that
18 correct?

19 A. If you would take notes, yes.

20 Q. And not only do you take notes, you would take good
21 notes, and you would take notes of everything that is
22 important, wouldn't you?

23 A. I took the notes of what, what I was responsible
24 for. And those are the notes that you just got through having
25 me to read.

26 Q. But isn't it a fact that we find ourselves here
27 today with a man charged of murder, four murders? You are
28 saying there is another line-up. You don't have it. You
29 don't recall who was in it. You don't know if Mr. Flowers was

1 in it or not. And we find ourselves having to rely on your
2 memory. Is that correct?

3 A. That's correct.

4 Q. Now, there was also a Catherine Snow. And correct
5 me if I'm wrong, but did you also show -- were you involved in
6 showing Catherine Snow --

7 A. I think I was present when Catherine Snow was shown
8 the photo line-up.

9 Q. Okay. Now, it has been testified that Miss Snow was
10 also interviewed a few times before she was actually shown a
11 photo line-up. Were you involved in those interviews before
12 the photo line-up?

13 A. I was not directly involved in the --

14 Q. Okay.

15 A. -- interview with her.

16 Q. Okay. Okay. And now, at some point do you recall
17 whether a reward was offered to, I guess, to lure people to
18 come forward and start making statements? Or whatever the
19 reason, a reward was put together.

20 A. I'm aware of a reward maybe being posted in this
21 crime, but I didn't really have anything to do with that. I'm
22 just -- all that I can say is that I was aware of that.

23 Q. Yes, sir. Now, if you know, the photo line-up you
24 showed Porky Collins, did it occur at his house, or was it at
25 the police department?

26 A. It was at the police department in Winona.

27 Q. Okay. Do you know how he got to the police
28 department? Did he drive himself there?

29 A. I do not know how he got there.

1 Q. And when you go to show someone a photo line-up,
2 what's said to that person before or during that process is
3 real important. Is that fair to say?

4 A. Say, say that again now. I didn't understand you.

5 Q. Upon putting together a photo array, a photo line-up
6 and having a person to come in and look at it and see if they
7 can identify a suspect, it's important that the -- that no one
8 says anything to that person or does anything to suggest to
9 that person who the suspect is. Is that fair to say?

10 A. That's correct.

11 Q. Okay. Now, you don't have any information that John
12 Johnson brought Mr. Collins to the police department on both
13 of those occasions, do you?

14 A. I don't. I don't have that information.

15 Q. Now, Porky Collins at some point, according to you,
16 picked Mr. Flowers. Now, did you make a videotape of him --
17 of that photo array and of Mr. Collins selecting Mr. Flowers?

18 A. No, I did not.

19 Q. Now, that could have been done, couldn't it?

20 A. It could have if under -- it could have. Yes.

21 Q. And the same is true with respect to Catherine Snow,
22 her occasion of looking at photo arrays or photographs could
23 have been videotaped; is that correct?

24 A. It could have.

25 Q. You had capability. Okay. As a matter of fact --
26 strike that.

27 One moment, Your Honor. I think I'm finished. One
28 moment.

29 Now, Mr. Miller, you remember being asked about these --

1 this same information at some point in another hearing. Is
2 that fair to say?

3 Let me clear that up some. You participated in another
4 hearing where you were asked if Porky Collins picked Mr.
5 Flowers out of the first line-up, and you said no, he did not.
6 Do you dispute that?

7 A. You talking about in another trial?

8 Q. Yes, sir. Yes, sir.

9 A. Okay. Now, the question again is what?

10 Q. You were asked did he pick Mr. Flowers in the first
11 one, talking about the first line-up. And the answer was no,
12 he did not.

13 A. I think I answered that awhile ago, but that is what
14 was on my note. And the fact that -- or at least that is what
15 I was trying to explain to you awhile ago. That first line-up
16 was not of a good quality, and you couldn't pick anybody out
17 in it.

18 That's what I was trying to tell you awhile ago, the fact
19 that there was another line-up. That was photograph --
20 driver's license photographs. And by the time they got faxed
21 to, to us, they were -- they were not good quality.

22 Q. Okay. Now, on your notes I show that you identified
23 in your notes.

24 A. Right.

25 Q. You said first, first photo line-up was unable to
26 identify anyone but said Number 1 and Number 3 looked like the
27 guy he saw.

28 A. Right. That is what my notes reflect.

29 Q. So he said Number 1 and Number 3 look like the guy

1 he saw.

2 A. But he didn't identify anyone. That is what you was
3 asking me.

4 Q. Well, maybe the right question is did he also claim
5 -- didn't he also claim that Number 1 and Number 3 look like
6 the guy he saw?

7 A. If that's what my notes reflect, yes.

8 MR. CARTER: Can I have this marked for
9 identification and have it admitted into evidence?

10 THE COURT: His notes? Any objection?

11 MR. EVANS: I don't think it's any -- no
12 objection.

13 THE COURT: I'll allow his notes to be marked
14 and admitted.

15 Q. (By Mr. Carter:) Mr. Miller, isn't it fair to say
16 --

17 THE COURT: Wait. Let her mark that first.

18 (MR. MILLER'S NOTES WERE MARKED DEFENDANT'S EXHIBIT
19 NUMBER 1 AND ADMITTED INTO EVIDENCE.)

20 You can proceed.

21 MR. CARTER: Okay. Thank you, Your Honor.

22 Q. (By Mr. Carter:) Mr. Miller, is it fair to say that
23 a suspect's photograph should be selected that doesn't bring
24 unreasonable attention to the suspect? Is that fair or unfair
25 to say?

26 A. That would probably be correct to say and...

27 Q. Thank you.

28 MR. CARTER: We tender.

29 CROSS-EXAMINATION BY MR. EVANS:

1 Q. Good evening, Mr. Miller.

2 A. How are you?

3 Q. I've got a few little areas I want to go over with
4 you. You were one of the investigators on this case.

5 A. I was.

6 Q. I believe you even had an occasion to check the shoe
7 sizes of Connie Moore's boys; is that correct?

8 A. That is correct.

9 Q. What shoe sizes did they wear at the time of these
10 murders?

11 A. The boys were something like 6 1/2, 7 1/2. I don't
12 have any reference notes with that, but something of the very
13 small boy's size.

14 Q. All right. And the one -- the older one that was
15 not living with her, I believe he wore Size 12; is that right?

16 A. That is correct.

17 Q. Also, I believe that very early on in this
18 investigation I think you went to Greenwood because you knew
19 that Fila shoes were probably involved in this case; is that
20 correct?

21 A. Yes, I did know that.

22 Q. And went to a shoe store and tried to find some Fila
23 Grant Hill II shoes.

24 A. And I did do that.

25 Q. And that was because you knew --

26 MR. CARTER: Object, Your Honor, to his
27 leading.

28 MR. EVANS: Your Honor, this is on
29 cross-examination.

1 THE COURT: He is on cross.

2 Q. (By Mr. Evans:) You knew that this box had been
3 recovered from the defendant's house, didn't you?

4 A. I knew that.

5 Q. Or it had been seen at his house.

6 A. Right. It had been seen there.

7 Q. You wanted to know if the shoes that had been in
8 this box could have left that bloody track, didn't you?

9 A. I did.

10 Q. So the crime lab knew very early on Fila shoes were
11 suspected as being the type shoes that were used.

12 A. Yes. We, we knew that fairly -- within the first
13 few days.

14 Q. You also in your investigation discovered that Doyle
15 Simpson wore a Size 12 shoe; is that correct?

16 A. That is correct.

17 Q. And as you've stated earlier, Doyle Simpson was a
18 suspect almost immediately; is that right?

19 A. Say that again.

20 Q. I mean Curtis Flowers --

21 A. Curtis Flowers --

22 Q. -- was a suspect --

23 A. -- was a suspect.

24 Q. -- almost immediately.

25 A. We were not -- in an investigation we would not have
26 taken the gunshot residue, and we didn't take it from anyone
27 else except Curtis Flowers.

28 Q. And Doyle Simpson was excluded as a suspect; is that
29 right?

1 A. Doyle was excluded.

2 Q. Now, I'm not going to ask you anything that you were
3 told, but did you talk to people at the store that knew the
4 deceased people that were there?

5 A. Yes, I did.

6 Q. Did those people give you information also that lead
7 Curtis Flowers to being a suspect?

8 A. They did.

9 Q. Now, you have been asked about these photos. Was it
10 your attempt to try to do a fair photo line-up for Porky
11 Collins to look at?

12 A. It was.

13 Q. And this was the second line-up that he was shown;
14 is that right?

15 A. That, that is correct.

16 Q. The first line-up he said that two people in it had
17 the right complexion, but he did not identify anybody; is that
18 right?

19 A. He did not identify anybody.

20 Q. The only line-up that he identified anybody was the
21 second one.

22 A. That is correct.

23 MR. EVANS: Your Honor, may I have this marked
24 for identification?

25 THE COURT: What is it?

26 MR. EVANS: It's the other photo line-up.

27 THE COURT: You can have it marked for
28 identification.

29 (THE PHOTO LINE-UP WAS MARKED STATE'S EXHIBIT NUMBER 129

1 FOR IDENTIFICATION.)

2 Q. (By Mr. Evans:) I'll hand you Exhibit 129 and ask
3 you if that is the first line-up that you showed Porky
4 Collins.

5 A. I did show this to Porky and he was -- he did not
6 identify anyone off of this.

7 Q. But he said that Number 1 and Number 3 had the right
8 complexion; is that right?

9 A. That's correct.

10 Q. Matter of fact, the defendant, Curtis Flowers, is
11 not even on that, is he?

12 A. He is not.

13 Q. And if you were trying to be suggestive and point
14 out somebody for him to identify, wouldn't you have put him in
15 the first line-up you showed?

16 A. I would have.

17 MR. EVANS: Your Honor, may I pass this to the
18 jury?

19 THE COURT: It hasn't been admitted into
20 evidence.

21 MR. EVANS: I offer it into evidence.

22 MR. CARTER: Let me see it first. Mind if I
23 get a look at it?

24 THE COURT: You may look at it.

25 MR. CARTER: No objection.

26 THE COURT: I'll allow it to be admitted. If
27 you will, hand it to the court reporter.

28 (THE PHOTO LINE-UP PREVIOUSLY MARKED STATE'S EXHIBIT
29 NUMBER 129 FOR IDENTIFICATION WAS ADMITTED INTO EVIDENCE.)

1 Q. (By Mr. Evans:) Before I pass it to the jury --
2 well, that's all right.

3 (STATE'S EXHIBIT NUMBER 129 WAS PASSED TO THE JURY.)

4 Now, on the photo line-up that the defendant, Curtis
5 Flowers, was on, you were asked why you didn't use a driver's
6 license photo of him. The other one, two, three, four, five
7 people on that line-up aren't driver's license photos, are
8 they?

9 A. No. Those are mug shots from police departments.

10 Q. So if you would have used a driver's license photo
11 as the defense has suggested, that would have been suggestive
12 if you used their theory; is that right?

13 A. It would have been different than the mugshots.
14 Yes.

15 Q. Do you have to use what you can find to come up with
16 some pictures?

17 A. Right.

18 Q. And was that attempt to try to get a fair section of
19 people for him to look at to see who he could identify?

20 A. That was just as fair as it could possibly be.
21 There was no reason for us to get a witness to identify
22 somebody that did not do those murders.

23 Q. And did he know who he had seen in front of the
24 store?

25 A. He did identify that. Yes.

26 Q. That was Curtis Flowers.

27 A. Curtis Flowers.

28 MR. EVANS: Nothing further, Your Honor.

29 MR. CARTER: I need to see the other

1 photograph, Your Honor.

2 THE COURT: It is being passed.

3 MR. CARTER: Go ahead. Go ahead. I'll get it
4 in a minute.

5 REDIRECT EXAMINATION BY MR. CARTER:

6 Q. Mr. Miller, what did you do to check shoes?

7 MR. EVANS: Your Honor, that is outside the
8 scope of --

9 MR. CARTER: He said -- he asked if he --

10 MR. EVANS: Okay. Okay. I'm sorry. I'm
11 sorry. If he is talking about those shoes, I have no
12 objection.

13 MR. CARTER: Those are certainly the ones I'm
14 talking about.

15 Q. (By Mr. Carter:) What did you do to check -- if I'm
16 not mistaken, Mr. Evans asked you if you checked Connie
17 Moore's sons' feet.

18 A. Shoe sizes is what he asked.

19 Q. Shoe sizes.

20 A. He asked about the shoe sizes of those children.

21 Q. Okay. How -- what did you do to check them?

22 A. Well, it was just obvious of what size shoes they
23 wore.

24 Q. You asked them. Is that what you are saying?

25 A. Yes. Yes.

26 Q. Is that checking? How old are those boys at this
27 time?

28 A. I can't recall that. I don't know.

29 Q. Young boys. About 10 or 11. Is that correct?

1 A. Something around -- he was in his tens, yeah. Ten.
2 Eleven.

3 Q. He is about 10 years old, yet he wore a 12. Is that
4 your testimony?

5 A. I didn't say that.

6 Q. What size did you say Mrs. Moore's boy wore?

7 A. I didn't say he wore a 12.

8 Q. I'm sorry. What size did you say his --

9 MR. EVANS: Which boy are we talking about,
10 Your Honor?

11 MR. CARTER: What was the question? One
12 minute.

13 THE COURT: You were asking the shoe size of
14 the younger boy.

15 Q. (By Mr. Carter:) Mr. Miller, did you testify that
16 Miss Moore's son one wore a 7 1/2 and one wore a 12?

17 A. No. Oldest boy that did not live there wore a 12.

18 Q. Okay. And where -- and the boy that wore a 12, did
19 you check at Miss Moore's house? How did you check?

20 A. I don't know. I don't know that I checked him at
21 his house.

22 Q. Where did you check him?

23 A. I think we found out that he wore a 12. I, I can't
24 answer that. I don't know how.

25 Q. Did you check?

26 A. It was checked.

27 Q. Did you check?

28 A. I don't know that I checked my own self.

29 Q. Okay. Now, okay. But you said you did. Is that

1 fair to say?

2 A. I, I had knowledge of him wearing a Size 12.

3 Q. Did you find a shoe that belonged to him that was
4 Size 12?

5 A. I don't think I found it.

6 Q. Did you take a ruler and measure his feet and show
7 that it was a Size 12?

8 A. No, I didn't do that.

9 Q. Now, Mr. Evans asked you this question, and you said
10 Porky Collins said Number 1 and Number 3 had the complexion of
11 the guy he saw. Is that what you are saying?

12 A. That's what I'm saying.

13 Q. Now, this is Mr. Flowers, Number 4, in Exhibit
14 S-128. And you telling me that he told you that Number 3 had
15 the complexion, then he turned around and picked Mr. Flowers.
16 Do they have the same complexion?

17 A. I'm not looking at it. I can't see it.

18 Q. Does Number 3 -- Mr. Flowers in that photo line-up,
19 Number 3 in that photo line-up, do they have the same
20 complexion?

21 A. Well, they are light-skinned.

22 Q. Mr. Flowers light-skinned?

23 A. He is lighter here than, than he is now. This is a
24 lighter, lighter photograph.

25 Q. Mr. Flowers light-skinned back in 1996 when you --

26 A. He was darker than the ones you are referring to.

27 Q. Where? Can you show me on your notes - and maybe I
28 missed it, and I apologize if I did - where it said anything
29 about any complexion on there? Maybe -- I'm sorry. Let me

1 read it first. I don't want to ask you a question if I'm
2 wrong. Can you hold one second?

3 Okay. I pass you back your statement. Is there anything
4 on there about any complexions?

5 A. My notes reflect the fact that Porky Collins in the
6 first photo line-up was unable to identify anyone but said
7 Number 1 and Number 3 looked like the guy he saw. Said he
8 looked like.

9 Q. Okay. You see anything in there about complexion?

10 A. I don't see anything on there about complexion.

11 Q. Okay. Thank you very much.

12 Now, we only had two pictures of Mr. Flowers. But as a
13 matter of fact, he was interviewed the day of the crime, and
14 he was interviewed a few days later. If you wanted some more
15 photographs, you could have gotten some, couldn't you?

16 A. I could have taken some photographs. Yes.

17 Q. Thank you.

18 I tender. No further questions.

19 THE COURT: I assume Mr. Miller is finally
20 excused; is that correct?

21 MR. CARTER: Yes, sir.

22 MR. EVANS: Yes, sir.

23 THE COURT: Mr. Miller, you are finally excused
24 as a witness, and you are free to go.

25 THE WITNESS: Thank you.

26 THE COURT: Anybody on the jury need a recess,
27 or y'all want to go on for a while? Y'all are all right?

28 Who will be the next witness from the defense?

29 MR. CARTER: Your Honor, one second.

1 Mary Nell Fleming.

2 THE COURT: Is she back here?

3 MR. CARTER: I think --

4 MR. EVANS: Your Honor, may we approach?

5 (MR. EVANS, MR. HILL AND MR. CARTER APPROACHED THE BENCH
6 FOR A BENCH CONFERENCE. THE BENCH CONFERENCE WAS REPORTED BUT
7 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

8 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
9 BENCH.)

10 THE COURT: Do you solemnly swear or affirm the
11 testimony you give in this case will be the truth, the
12 whole truth and nothing but the truth, so help you God?

13 THE WITNESS: Yes, sir.

14 THE COURT: Come around please, have a seat.

15 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

16 THE COURT: State your name, please.

17 THE WITNESS: Mary Ella Fleming.

18 THE COURT: Miss Fleming, you are going to need
19 to speak a lot louder than that because everybody over
20 there to your left has got to hear you.

21 THE WITNESS: Mary Ella Flemming.

22 MARY ELLA FLEMING, Called on behalf of the Defendant,
23 having been duly sworn, was examined and testified as follows:

24 DIRECT EXAMINATION BY MR. CARTER:

25 Q. Now, Miss Fleming, I just have a few questions and I
26 am going to ask you to relax. You are not nervous, are you?

27 A. A little bit.

28 Q. Try to relax, if you can. Where do you live? You
29 live in Winona?

1 A. Yes, sir.

2 Q. How long you been living here?

3 A. All my life.

4 Q. You have any sisters?

5 A. Yes, sir.

6 Q. How many?

7 A. Me. Joann.

8 THE COURT: Speak up.

9 A. Joann. Neecy. Clemmie. And Clarissa.

10 Q. Okay. And Clemmie Fleming is your sister.

11 A. Yes, sir.

12 Q. Who is the oldest - you or her?

13 A. I am.

14 Q. Do you remember something happened at Tardy

15 Furniture back in July of 1996?

16 A. Yes, sir.

17 Q. And what do -- how do you remember it?

18 A. Clemmie and my sister Neecy came over to my house

19 that morning. And I was talking to them about they owed some

20 -- owed Miss Tardy some money for some furniture, because my

21 brother had co-signed for some furniture for them. And --

22 Q. Clemmie Fleming came to your house and Neecy

23 Fleming.

24 A. Right.

25 Q. Your two sisters.

26 A. Right.

27 Q. About what time did they get there?

28 A. Early that morning.

29 Q. Give us to the best --

1 A. About 7:30, 8:00 that morning.

2 Q. Okay. And you had a discussion with them about
3 owing some -- or did you have a discussion with Clemmie about
4 furniture or both?

5 A. Both of them.

6 Q. About owing some money at Tardy's.

7 A. Right.

8 Q. What happened after that?

9 A. Clemmie, my sister Neecy said she didn't have any
10 money to pay Miss Tardy. Clemmie said she was going to take
11 her some money down there later on that morning. And I told
12 Clemmie, I said Clemmie, wait till later on. I am going to go
13 with you, because I am going to look at me a bedroom set. So
14 we never did go.

15 And there's another girl Camilla Townsend was over there
16 with her. She left and came back. When she came back, she
17 told us that Miss Tardy and them had got killed. And I told
18 Clemmie, I said Clemmie, I said I am glad we didn't go down
19 there that morning.

20 MR. EVANS: I object to hearsay.

21 THE COURT: I think she is actually testifying
22 to what she said. So that wouldn't be hearsay.

23 MR. EVANS: No objection.

24 Q. (By Mr. Carter:) All right. Go ahead.

25 A. I told Clemmie, I said I am glad we didn't go down
26 there, because we would have been caught up there when that
27 happened. And Clemmie said sure would have.

28 THE COURT: Wait. No. You can't talk about
29 what Clemmie said.

1 Q. (By Mr. Carter:) You can't say what Clemmie said,
2 as the judge told.

3 What time did -- Clemmie came to your house that morning.

4 A. Yes, sir.

5 Q. And how long did she stay?

6 A. All that day.

7 Q. And how many times did y'all leave before Clemmie
8 left?

9 A. One time.

10 Q. And that's the time y'all went down there --

11 A. Right.

12 Q. -- to see what was going on at Tardy.

13 A. Right.

14 Q. And you are absolutely sure about that.

15 A. Yes, sir.

16 Q. Did the police department ever talk to you?

17 A. No, sir.

18 Q. And what you are saying is absolutely true; is that
19 correct?

20 A. Yes, sir.

21 Q. Nobody has offered you anything to get you to say
22 this, have they?

23 A. No, sir.

24 MR. CARTER: Tender.

25 CROSS-EXAMINATION BY MR. EVANS:

26 Q. Good evening, Miss Fleming.

27 A. Hi.

28 Q. Now, according to your statement, your sister owed a
29 bill at Tardy Furniture.

1 A. Right.

2 Q. And she was discussing needing to go pay on that
3 bill that morning.

4 A. Right.

5 Q. Are you aware of the fact that Roy Harris actually
6 drove her down there that morning?

7 A. He didn't drive her from my house, he didn't.

8 Q. I didn't ask if he drove from your house. Are you
9 aware that he drove --

10 A. No, I'm not.

11 Q. -- to Tardy Furniture --

12 A. No, I'm not.

13 COURT REPORTER: Judge, they are talking at the
14 same time.

15 THE COURT: Let him finish his question, and
16 then he'll let you finish your answer.

17 Q. (By Mr. Evans:) Are you aware of that?

18 A. No, sir, I'm not.

19 Q. Are you aware that he has given sworn testimony --

20 MR. DEGRUY: Your Honor.

21 Q. -- that he drove her down there that morning?

22 A. No, I'm not aware of that either.

23 MR. DEGRUY: Your Honor, he is testifying to --

24 THE COURT: I sustain the objection.

25 Ladies and gentlemen of the jury, you are to
26 disregard that. There has been no such testimony.

27 MR. EVANS: Your Honor, I'm not talking --

28 THE COURT: Well, well, I'm telling you --

29 MR. DEGRUY: Your Honor, we'll have to --

1 THE COURT: -- that it is not here, and it is
2 not this trial.

3 MR. DEGRUY: Your Honor, we'll have to take
4 this up.

5 THE COURT: And so I will sustain the
6 objection.

7 Again, ladies and gentlemen of the jury, you are
8 each to disregard that last question and the response.

9 Q. (By Mr. Evans:) Do you know Roy Harris?

10 A. Yes, sir.

11 Q. Where does he live?

12 A. I don't know.

13 Q. What does he drive?

14 A. I really don't know. I know him when I see him, but
15 I don't talk to him.

16 Q. What's your brother's name that cosigned the note
17 with Clemmie?

18 A. Robert Fleming, Jr.

19 Q. Are you aware that he ended up having a judgment
20 against him on the bill?

21 A. No, I'm not.

22 Q. So you hadn't talked to anybody else about this
23 bill.

24 A. No, I haven't.

25 Q. When did you go down to the police department and
26 volunteer this information to them?

27 A. I never did go down there.

28 Q. You didn't, did you?

29 A. No, I didn't.

1 MR. EVANS: Nothing further.

2 THE COURT: Any redirect?

3 MR. CARTER: Yeah. Just one question.

4 REDIRECT EXAMINATION BY MR. CARTER:

5 Q. Miss Fleming, somebody did come to you at some
6 point, didn't they, and talk to you about your sister and --
7 as regard what occurred at Tardy's?

8 A. Later on. Yes.

9 Q. You didn't have a problem giving that statement, did
10 you?

11 A. No, I didn't.

12 MR. CARTER: No further questions.

13 THE COURT: You may step down, Miss Fleming,
14 and you are free to go.

15 Who would be the next witness?

16 MR. CARTER: One moment, Your Honor. Let me
17 look at my list here.

18 I call Essa Campbell, Your Honor. Essa.

19 (THE WITNESS ENTERED THE COURTROOM.)

20 THE COURT: If you will, come around, please,
21 face the bench and take the oath.

22 (THE WITNESS APPROACHED THE BENCH.)

23 Do you solemnly swear or affirm that the testimony
24 you give in this case will be the truth, the whole truth
25 and nothing but the truth, so help you God?

26 THE WITNESS: I do.

27 THE COURT: Come around, please, and have a
28 seat.

29 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

1 THE COURT: Please state your name.

2 THE WITNESS: Essa Ruth Campbell.

3 THE COURT: Miss Campbell, you are going to
4 need to speak a little louder. These microphones are not
5 going to do anything but record your voice. They don't
6 amplify. So speak loud enough so everybody can hear you.

7 You can proceed.

8 ESSA RUTH CAMPBELL, Called on behalf of the Defendant,
9 having been duly sworn, was examined and testified as follows:

10 DIRECT EXAMINATION BY MR. CARTER:

11 Q. Miss Campbell, where do you live or do you live here
12 in --

13 A. Winona.

14 Q. How long have you lived here?

15 A. All my life.

16 Q. All your life. Are you all right?

17 A. I'm fine.

18 Q. Okay. I take it you know Curtis Flowers.

19 A. Yes.

20 Q. You related to him?

21 A. Yes.

22 Q. What degree?

23 A. He's my nephew.

24 Q. Do you know Doyle Simpson?

25 A. Yes.

26 Q. Are you related to him?

27 A. Yes.

28 Q. How?

29 A. He is my brother.

- 1 Q. Where do you work at this time?
- 2 A. Winona Manor.
- 3 Q. And where were you working back in 1996?
- 4 A. Winona Manor.
- 5 Q. How long have you been there?
- 6 A. Seventeen years. Seventeen years.
- 7 Q. You remember the day that the killings took place at
- 8 Tardy.
- 9 A. Yes.
- 10 Q. Where were you when you heard about it?
- 11 A. At Winona Manor.
- 12 Q. About what time was it?
- 13 A. That I heard about it?
- 14 Q. Yes, ma'am.
- 15 A. I heard about it about 11:00.
- 16 Q. About 11:00.
- 17 A. Um-hum.
- 18 Q. Okay. Did you see anything or anybody that morning
- 19 that is important to this case?
- 20 A. Doyle Simpson.
- 21 Q. Did you see him?
- 22 A. I saw his car.
- 23 Q. Saw his car. About what time did you see it?
- 24 A. Between 9:30 and 10:00.
- 25 Q. Okay. Where was it when you saw it?
- 26 A. It was going towards McDonald's.
- 27 Q. Okay. What road was he on?
- 28 A. He was on 82.
- 29 Q. You need some water or something?

1 A. No.

2 Q. Okay. You sure it was his car?

3 A. Yes.

4 Q. Why are you sure?

5 A. Because his car stayed at my house most of the time.

6 Q. You saw it a lot.

7 A. Yeah. I saw it a lot.

8 (MR. CARTER WAS LOOKING THROUGH THE EXHIBITS.)

9 THE COURT: I believe it's in that stack. I
10 believe you have just gone by it.

11 Q. I show you S-99. That car look like it?

12 A. Yes.

13 Q. Okay. So your testimony is that you saw this car,
14 did you say, between 9:30 and --

15 A. 10:00.

16 Q. -- and 10:00? And 82 -- where is Winona Manor
17 located, just in case somebody don't know? Where is -- where
18 is your job, the address where it is located? What street?

19 A. It is on Middleton Road.

20 Q. Okay. And you can see 82 from --

21 A. Yes.

22 Q. And you had a good view.

23 A. Yes.

24 Q. No doubt that you saw his car.

25 A. Yes.

26 Q. How many times did you see that car that day?

27 A. I saw it once going up, and then it came back down.

28 Q. Okay. How much later - I know it's been a long
29 time - did you see it coming back when you saw it? Just guess

1 if, if you want to. You don't have to --

2 A. About 10 or 15 minutes, you know.

3 Q. Now, you wouldn't lie for Doyle, would you?

4 A. No.

5 Q. And you wouldn't lie about seeing that car, would
6 you?

7 A. No.

8 MR. CARTER: Tender.

9 CROSS-EXAMINATION BY MR. EVANS:

10 Q. Good evening, Miss Campbell.

11 A. Good evening.

12 Q. Curtis Flowers is your nephew.

13 A. Yes.

14 Q. You're his mother's sister.

15 A. Yes.

16 Q. Okay. And basically, if I understand, all you are
17 saying is you saw a car that looked like that go by the
18 highway that morning.

19 A. Yes.

20 Q. You did not see who was driving it.

21 A. No, I didn't see who was driving, but I know his
22 car.

23 Q. Okay. And you are saying that you saw it go by
24 somewhere between 9:30 and 10:00; is that right?

25 A. Yes.

26 Q. When John Johnson interviewed you, at that time you
27 were saying that it was 9:00 when you saw it; is that right?

28 A. John Johnson.

29 Q. Do you know who -- do you know John Johnson?

1 A. Yes, I heard of him.

2 Q. Do you remember when he talked to you, that you said
3 it was about 9:00?

4 A. No, I did not.

5 Q. Oh, you didn't.

6 A. No.

7 Q. You deny that.

8 A. I deny that. I said 9:30. Between 9:30 and 10:00.

9 Q. Okay. Now, what were you doing there that day?

10 A. I was working, sitting out on the porch with a
11 patient.

12 Q. Okay. And how long did you sit out there?

13 A. I sit out there till about 10:00.

14 Q. Okay. Now, you said it went up there about 9:30 to
15 10:00 and ten or fifteen minutes it came back by. So what
16 time did it come back by?

17 A. Like I said, it was between that time, from 9:30 to
18 about 15 minutes to 10:00. I was still sitting out there on
19 the porch.

20 Q. 9:30, fifteen minutes to 10:00, you were still
21 sitting out there. How did you see it supposedly when it came
22 back by?

23 A. Because I was still sitting on the porch.

24 Q. Okay. So now you are narrowing it back down to a
25 closer time since I'm trying to figure out the time; is that
26 right?

27 A. It was between that time.

28 Q. You would like to help your nephew, wouldn't you?
29 Wouldn't you, Miss Campbell?

1 A. I would like to help anybody I can.

2 MR. EVANS: No further questions.

3 REDIRECT EXAMINATION BY MR. CARTER:

4 Q. Miss Campbell.

5 A. Um-hum.

6 Q. You are sure about seeing this car twice; right?

7 A. Yes.

8 Q. Now, you can't -- I know it's been a long time. And
9 on the day this happened, I take it you didn't look at a watch
10 --

11 A. No, I didn't.

12 Q. -- or a clock to make sure that you can get the
13 exact time right. Is that fair it say?

14 A. Yes.

15 Q. But you know you saw it going. You know you saw it
16 coming back.

17 A. Yes.

18 MR. CARTER: Thank you.

19 THE COURT: Miss Campbell, you may step down,
20 and you are free to go.

21 MR. CARTER: May we approach for a minute?

22 (MR. EVANS, MR. HILL, MR. DEGRUY AND MR. CARTER
23 APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE THE
24 HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT
25 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

26 MR. CARTER: Latarsha Blissett, Your Honor.

27 (MR. EVANS, MR. HILL, MR. DEGRUY AND MR. CARTER
28 APPROACHED THE BENCH FOR A BENCH CONFERENCE HAD OUTSIDE THE
29 HEARING OF THE JURY. THE BENCH CONFERENCE WAS REPORTED BUT

1 NOT REQUESTED TO BE TRANSCRIBED HEREIN.)

2 (THE WITNESS ENTERED THE COURTROOM.)

3 THE COURT: Miss Blissett, I need you to come
4 around, raise your right hand and take the oath.

5 (THE WITNESS APPROACHED THE BENCH.)

6 Do you solemnly swear or affirm the testimony you
7 give in this case will be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 THE WITNESS: I do.

10 THE COURT: Come around, please, and have a
11 seat.

12 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

13 THE COURT: State your name, please, for the
14 record.

15 THE WITNESS: My name is Latarsha Blissett.

16 THE COURT: You may proceed, Mr. Carter.

17 LATARSHA BLISSETT, Called on behalf of the Defendant,
18 having been duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION BY MR. CARTER:

20 Q. How you doing, Miss Blissett?

21 A. I'm doing all right.

22 Q. Where do you live? Do you live in Montgomery
23 County?

24 A. Yes.

25 Q. And how long have you lived here?

26 A. Thirty years.

27 Q. Okay. And let's get straight to the point. Do you
28 remember the Tardy murders back in 1996?

29 A. Yes.

1 Q. And at that time I believe you were in high school.
2 Is that fair to say?

3 A. Um-hum.

4 Q. And did someone come and get you to talk to you?

5 A. Yes.

6 Q. Who came, as best you can recall?

7 A. John Johnson and Miss Vanhorn.

8 Q. Okay. What happened --

9 A. They came.

10 Q. -- before, before -- I'm sorry. Where were you when
11 they came?

12 A. I was at school, the vo-tech building.

13 Q. Okay. And how were you made aware that they wanted
14 to talk to you?

15 A. They paged me to the office and told me that I
16 needed to go with John Johnson.

17 Q. Okay. Did your mom go with you?

18 A. Hum-hum. I went by myself.

19 Q. Do you know if your mom was notified?

20 A. No. She didn't know.

21 Q. So John Johnson and someone showed up at school one
22 day and said come go with me and you went.

23 A. Yeah. I went, because it was the law.

24 Q. Where did they take you?

25 A. Took me to Greenwood to the highway patrol center
26 over there.

27 Q. How long were you there?

28 A. I was there the whole time school hours went on.

29 Q. And about the time they brought you back, was school

1 still going on?

2 A. It was almost out. It was time for me to get my
3 things together, go home.

4 Q. And you were picked up from school the afternoon or
5 morning?

6 A. It was during morning time.

7 Q. Okay. And once you got to Greenwood, what happened?

8 A. They asked me a lot of questions.

9 Q. What, what were you asked?

10 A. I was asked about the incident that went down at
11 Tardy's place, and they asked me was I trying to buy a house
12 and told me some information about myself that they knew. And
13 they asked me did I know was a reward out, \$30,000 reward.
14 And if I knew what I could do with \$30,000.

15 Q. Okay. Who said that to you?

16 A. The guy that I was talking to. I can't --

17 Q. Is it the same guy that picked you up? Or just best
18 you can recall.

19 A. I can't remember.

20 Q. So do you know if that person -- was he a tall guy
21 with kind of white hair, blond hair?

22 A. I know the guy if I see him.

23 Q. All right. But was it a different guy than the one
24 that picked you up from the high school?

25 A. Yes, I think it were.

26 Q. Okay. And do you have any idea what they were
27 trying to get you to say or what, what concerning Tardy's were
28 they asking you about?

29 A. They was asking me if I knew what kind of shoes

1 Curtis Flowers wore.

2 Q. And what did you tell them?

3 A. I told them nah. And they asked me what kind of
4 shoes Earl Campbell wore. And just asking me different
5 questions like that.

6 Q. Okay. And is it fair to say you were down there
7 several hours?

8 A. Yeah, I was.

9 Q. And were you in the same room with these individuals
10 that whole time or were you -- where were you?

11 A. We was in the same room the whole time, but it was a
12 mirror on the wall. And it was -- you could see shadows like
13 people was standing back there.

14 Q. So why do you think \$30,000 was mentioned to you?
15 Or what did they tell you? What, what impression did you get
16 about why that money was mentioned?

17 A. Well, they knew I was trying to buy a new home. So
18 I'm assuming that --

19 MR. HILL: Objection. What she assumed.

20 THE COURT: I'll --

21 Q. (By Mr. Carter:) What were you thinking?

22 A. I could use that 30,000 to pay for my house that I
23 was trying to get, because I was going to school.

24 Q. But you were unable to help them; is that correct?
25 You have no idea who committed the murders at Tardy's, do you?

26 A. No. I, I did not know who committed the murders. I
27 didn't know none of this was going on till they came and got
28 me.

29 Q. Okay. And you were unable to provide anything that

1 would have helped on the case. Is that fair to say?

2 A. (Shook head.)

3 Q. You have to say no so she can get it on there.

4 A. No.

5 MR. CARTER: I tender the witness.

6 CROSS-EXAMINATION BY MR. EVANS:

7 Q. Good evening, Miss Blissett.

8 A. How you doing?

9 Q. All right. Actually, Miss Vanhorn is the one that
10 came to the school and asked you to go with her, wasn't she?

11 A. They was both together.

12 Q. Okay. And are you aware of whether or not Miss
13 Vanhorn had contacted your parents?

14 A. At that time, no.

15 Q. Isn't it a fact that she did contact your parents
16 before y'all went to Greenwood?

17 A. No, she didn't.

18 Q. She didn't do that?

19 A. (Shook head.)

20 Q. Okay. Did you say oh, I don't want to go to
21 Greenwood with you?

22 A. No, because it's the police.

23 Q. You were not under arrest, were you?

24 A. No, I wasn't.

25 Q. And what you're telling this jury -- well, let me
26 ask you this. When was this?

27 A. I don't -- I can't give you the exact day that it
28 was they come and got me out of school.

29 Q. Well, was it a day after the murder, a week after

1 the murder? The best you can tell me.

2 A. I'd say probably a couple of days or so.

3 Q. Couple of days after the murder. Okay. And all
4 they were doing, they were asking you questions.

5 A. That's all.

6 Q. They asked you if you knew anything about the
7 murders.

8 A. Yes, they asked me that.

9 Q. They asked you if you knew what size shoes Curtis
10 Flowers wore.

11 A. Yes.

12 Q. They asked you if you knew what kind of shoes he
13 wore.

14 A. Yes. That is what they were asking me.

15 Q. They never told you what size shoes Curtis Flowers
16 wore, did they?

17 A. No.

18 Q. They never told you anything. They just asked you
19 what you knew, didn't they?

20 A. That is what they was asking me.

21 Q. Matter of fact, the truth of the matter is, it was a
22 long time after this before there was a reward, isn't it?

23 A. I don't -- I just know they asked me do I know what
24 \$30,000 can do.

25 Q. Anybody buy you a home?

26 A. No. Didn't no one buy me no home.

27 Q. There wasn't a reward at that time, was it?

28 A. I don't know when the reward was offered, but they

29 --

1 Q. It was after that.

2 A. But they probably knew what they was going to offer
3 before they even put the reward out.

4 MR. EVANS: Nothing further of this witness,
5 Your Honor.

6 REDIRECT EXAMINATION BY MR. CARTER:

7 Q. Miss Blissett, you are absolutely 100 percent sure
8 that they asked you if you knew what \$30,000 could do.

9 A. Yes.

10 Q. And I haven't offered you anything to get you to
11 testify; is that correct?

12 A. No, you haven't.

13 Q. And everything you are telling today is the absolute
14 truth; is that correct?

15 A. Yes, it is.

16 MR. CARTER: Thank you.

17 THE COURT: You are excused.

18 MR. CARTER: Free to go. No further questions.

19 THE COURT: Miss Blissett, you may step down.
20 You are free to go.

21 THE WITNESS: Thank you.

22 BAILIFF: The jury needs a break.

23 THE COURT: Okay. Ladies and gentlemen, we
24 will take about a ten-minute recess.

25 (A RECESS WAS TAKEN.)

26 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
27 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
28 PROCEEDINGS WERE AS FOLLOWS:)

29 THE COURT: Who is your next witness?

1 MR. CARTER: Connie Moore, Your Honor.

2 (THE JURY RETURNED TO THE COURTROOM.)

3 (THE WITNESS ENTERED THE COURTROOM AND APPROACHED THE
4 BENCH.)

5 THE COURT: Raise your right hand, please.

6 Do you solemnly swear or affirm the testimony you
7 give in this case will be the truth, the whole truth and
8 nothing but the truth, so help you God?

9 THE WITNESS: Yes, sir.

10 THE COURT: Come around, please, and have a
11 seat.

12 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

13 THE COURT: State your name.

14 THE WITNESS: Connie Moore.

15 THE COURT: Miss Moore, speak up louder than
16 that, because these people over in the jury box have to
17 hear you.

18 CONNIE MOORE, Called on behalf of the Defendant, having
19 been duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION BY MR. CARTER:

21 Q. Miss Moore, try to relax. I know you are kind of
22 nervous, but don't let that bother you. You would be amazed
23 at how nervous the lawyers are.

24 Where do you live? Do you live here in the county of
25 Winona?

26 A. Yes, sir.

27 Q. Montgomery County.

28 A. Yes, sir.

29 Q. How long have you lived here?

1 A. All my life.

2 Q. All your life.

3 A. Yes, sir.

4 Q. And were you living -- strike that. You were
5 certainly living here in 1996; is that correct?

6 A. Correct.

7 Q. In fact, you were living on McNutt Street; is that
8 correct?

9 A. Yes, sir.

10 Q. And do you know Patricia Hallmon?

11 A. Yes, sir.

12 Q. And she was a neighbor of yours back then.

13 A. Yes, sir.

14 Q. And she testified that she had some kind of special
15 relationship with one of your daughters. How many children do
16 you have?

17 A. Four.

18 Q. And where -- what are their names?

19 A. Marcus. Lamarcus.

20 Q. When you do it, can you tell us their name and how
21 old they are?

22 A. Marcus, he is 24. Lamarcus, 23. Marissa, 19. And
23 Brittany is 14.

24 Q. Okay. So you got a Marcus, a Lamarcus, Clarissa and
25 Brittany.

26 A. Correct.

27 Q. Now, was Patricia Hallmon the godmother of either of
28 your daughters?

29 A. No, sir.

1 Q. Did y'all ever have some kind of -- any kind of
2 proceeding which she was made any such...

3 A. No, sir.

4 Q. Did she do anything special for either of your
5 daughters?

6 A. No, sir.

7 Q. Has she ever called them on any special occasions?

8 A. No, sir.

9 Q. When was the last time you talked to her?

10 A. I have -- (Shook head.)

11 Q. Been years?

12 A. Yes, sir.

13 Q. Does she call your house in years?

14 A. No, sir.

15 Q. You haven't called hers either, have you?

16 A. No, sir.

17 Q. Now, you don't live on McNutt at this point, do you?

18 A. No, sir.

19 Q. Where, where you working back on the time that those
20 murders occurred at Tardy's?

21 A. Richardson Brothers South.

22 Q. Okay. And do you recall learning about the murders
23 that occurred down there?

24 A. Yes, sir.

25 Q. About what time of the day did you learn?

26 A. It was morning time.

27 Q. Around morning. Okay.

28 Now, you had two sons. And up until some point, both of
29 your sons were living with you; is that correct?

1 A. Correct.

2 Q. And do their feet grow about the same rate, or did
3 one grow faster than the other one?

4 A. One went faster than the other.

5 Q. What size, if you recall, were your oldest boy
6 wearing back then?

7 A. Ten and a half.

8 Q. And I take it you bought him clothes and shoes and
9 all that stuff back then.

10 A. Yes, sir.

11 Q. And did you buy him any -- what kind of tennis shoes
12 had you bought him around the time this murder occurred?

13 A. Some Grant Hill.

14 Q. Grant Hill Fila.

15 A. Yes, sir.

16 Q. You have no doubt about that.

17 A. No, sir.

18 Q. And did you throw away the box?

19 A. No, sir.

20 Q. You kept it. And where did you keep it?

21 A. In my closet. I had bows in it.

22 Q. Okay. I'm sorry. You said you had what in it?

23 A. Bows.

24 Q. Okay. Hair bows for your daughter or something.

25 A. Yes, sir.

26 MR. EVANS: Your Honor, object to the leading.

27 THE COURT: Don't lead.

28 Q. (By Mr. Carter:) What bows? For what?

29 A. Hair bows.

1 Q. What was it for?

2 A. My daughter.

3 Q. Do you remember when you bought them and where you
4 bought them from? I know it has been a long time, but do you
5 remember? The Fila shoes. Not the bows.

6 A. I know it was in Greenwood.

7 Q. Okay. Now, back at that time who were you dating?

8 A. Curtis Flowers.

9 Q. And did the police come to your house --

10 A. Yes, sir.

11 Q. -- concerning this case?

12 A. Yes, sir.

13 Q. How many occasions?

14 A. Several.

15 Q. How many times they come to your house?

16 A. It was several times.

17 Q. Several times. Did you ever tell them they couldn't
18 come in?

19 A. No, sir.

20 Q. Did they search?

21 A. Yes, sir.

22 Q. Did you ever try to stop them from searching?

23 A. No, sir.

24 Q. Did they take anything from the house?

25 A. No, sir. The shoe box. Well, they got that. Other
26 than that...

27 Q. At one point did they find something else that they
28 gave you back?

29 A. Yes, sir.

1 Q. What did they find?

2 A. Money.

3 Q. Whose money was that?

4 A. Mine.

5 Q. At some point Marcus went to live with his daddy; is
6 that correct?

7 A. Yes, sir.

8 Q. Do you remember any police coming to your house and
9 trying to check your boys' feet?

10 A. No, sir.

11 Q. Or measure their feet?

12 A. No, sir.

13 Q. And when they came looking for that box, did you
14 give it to them?

15 A. Yes, sir.

16 Q. Did you -- were you reluctant at all to give it to
17 them?

18 A. Well, I just gave it to them when they asked.

19 Q. You didn't have any objection to passing it to them?

20 A. No, sir.

21 Q. Did you have a particular kind of bed back then that
22 had something unusual about the headboard or --

23 A. Yes, sir. It was a wall bed.

24 Q. Wall bed.

25 A. Yes, sir.

26 Q. What that mean?

27 A. Well, it's a big bed. But it got doors on it that
28 can open up.

29 Q. Doors on the head part?

1 A. Yes, sir.

2 Q. And it covers the whole head part. And is it
3 partially on the side?

4 A. It's just side-to-side piece that open up.

5 Q. Two side pieces open up.

6 A. Yes, sir.

7 Q. That have drawers there.

8 A. Yes, sir.

9 Q. Were the drawers working back then?

10 A. Well, you can just raise it up.

11 Q. Raise it up.

12 A. Yes, sir.

13 MR. CARTER: Hold on a minute. I think I'm
14 finished.

15 One moment, Your Honor.

16 THE COURT: Sure.

17 MR. CARTER: I tender.

18 CROSS-EXAMINATION BY MR. EVANS:

19 Q. Good evening, Miss Moore.

20 A. Good evening.

21 Q. Back at the time of these murders, you and Curtis
22 Flowers were living together; is that right?

23 A. Yes, sir.

24 Q. And y'all lived within just a few feet of Patricia
25 Hallmon.

26 A. Yes, sir.

27 Q. Would it be a correct statement that it is probably
28 not but about five feet between y'all's houses?

29 A. Well, it wasn't that far. I put it like that.

1 Q. Is that about right?

2 A. I don't know. Like I said, it wasn't that far.

3 Q. Real close.

4 A. Yes, sir.

5 Q. If I understood right, when you were asked the
6 direct question, were these bows your daughter's bows, is
7 that -- you said yes; is that right?

8 A. Yes, sir.

9 Q. It was in the box.

10 A. Yes, sir.

11 Q. Is that your version today about what was in the
12 box?

13 A. Well, I had two boxes one had Christmas bows and one
14 had hair bows in it.

15 Q. But there wasn't but one Fila box, was it?

16 A. It was two Fila boxes.

17 Q. Oh, it was.

18 A. Yes, sir.

19 Q. What kind of box was the other Fila box?

20 A. The same as that one.

21 Q. What size?

22 A. Twelve and a half.

23 Q. And that was the box that you had bought for your
24 son, wasn't it?

25 A. No, sir.

26 Q. The 12 1/2.

27 A. No, sir. That was girl's shoe.

28 Q. Because that was the size -- 12 1/2 is the size that
29 your older son wore, wasn't it?

1 A. No, sir.

2 Q. Or 12.

3 A. No, sir.

4 Q. So the 12 1/2 box were girls.

5 A. Yes, sir.

6 Q. You didn't have a boys shoes that size.

7 A. No, sir, I didn't.

8 Q. Your older son wasn't living with you, was he?

9 A. No, sir.

10 Q. He was living with Vernon Peeples.

11 A. Well, he moved out. Yes, sir. He was with me in
12 July. He moved out on down the line.

13 Q. So he was with you at the time.

14 A. Yes, sir. Wait a minute. That happened in '96.
15 Yes, sir.

16 Q. Okay. The officers --

17 BAILIFF: Your Honor, the jury cannot hear her.

18 THE COURT: If you will, speak a little louder
19 when you are answering questions.

20 Q. The officers came to your house with a search
21 warrant; is that right?

22 A. Correct.

23 THE COURT: Speak up.

24 THE WITNESS: Okay.

25 Q. And they were looking for Fila shoes; is that right?

26 A. Yes, sir. Yes, sir.

27 Q. First time that they were there, they found this
28 Fila tennis shoe box, didn't they?

29 A. Yes, sir.

1 Q. And they came back a second time and got this box,
2 didn't they?

3 A. Yes, sir.

4 Q. And you knew that this was a Fila tennis shoe box.

5 A. Yes, sir.

6 Q. And you knew they were looking for the shoes that
7 were in this box.

8 A. Yes, sir.

9 Q. Didn't you?

10 A. Yes, sir.

11 Q. If they were your son's shoes, why didn't you go get
12 them and say here are the shoes?

13 A. My son had moved out.

14 Q. You just said he hadn't moved out.

15 A. Well, like I said, he had moved out.

16 Q. Well, make up your mind. Had he moved out or not?

17 A. He had moved out.

18 Q. Did he move out overnight?

19 A. No, sir.

20 Q. All right. But you just got through testifying he
21 was still living there, hadn't you?

22 A. Yes, sir. But he had moved.

23 MR. CARTER: I can't hear. I'm sorry.

24 Q. My question is simply this - you knew that the
25 officers were looking for a pair of 10 1/2 Fila Grant Hills.
26 Why didn't you help them find them?

27 A. Well, they wasn't there, sir.

28 Q. They had been -- what, what happened to them?

29 A. When my son moved, he moved his stuff with him.

1 Q. Well, he didn't move to China, did he?

2 A. No, sir.

3 Q. Where did he move to?

4 A. With his father.

5 Q. Where was that?

6 A. I think he was staying on -- is it Grant Street?
7 Somewhere down --

8 Q. In Winona.

9 A. Yes, sir.

10 Q. You didn't attempt to help find those shoes, did
11 you?

12 A. Well, I didn't know. I asked about them.

13 Q. Because you knew there was a good reason you didn't
14 want them found, didn't you?

15 A. Well, yes.

16 THE COURT: What was that? I didn't hear that.

17 THE WITNESS: I said yes, you know.

18 MR. EVANS: No further questions.

19 MR. CARTER: One moment, Your Honor.

20 REDIRECT EXAMINATION BY MR. CARTER:

21 Q. Miss Moore, what size Lamarcus wear now?

22 A. Thirteen.

23 Q. Now, when the police came to your house, the first
24 time they came -- on every occasion they came, you allowed
25 them to search; is that correct?

26 A. Yes, sir.

27 Q. Did they ask you to go find any, go look for any
28 shoes or anything?

29 A. No, sir.

1 Q. Now, you told them you had another son that wasn't
2 living with you; right?

3 A. Yes, sir.

4 Q. And I believe there has been testimony already that
5 your other son had moved out.

6 A. Yes, sir.

7 MR. EVANS: Your Honor, I object to that. She
8 has already testified both ways. And for him to try to
9 lead her in that, I think is improper.

10 THE COURT: It is a leading question.

11 MR. CARTER: Well, I will make it non-leading.

12 Q. (By Mr. Carter:) By the time the crime occurred at
13 Tardy's -- strike that. By the time the police came to your
14 house to search your house, was -- were all your children
15 still living with you?

16 A. No, sir.

17 Q. Okay. Now, do you remember exactly when Lamarcus
18 left, your oldest kid?

19 A. No, sir.

20 Q. Okay. But you do know he was out on each -- he had
21 moved on each occasion that the police came to search your
22 house.

23 A. Yes, sir.

24 Q. And you allowed them to search every single time,
25 didn't you?

26 A. Yes, sir.

27 Q. And they never even asked you for anything. Did
28 they ask you for help in any way?

29 A. No, sir.

1 MR. CARTER: Tender, Your Honor.

2 THE COURT: I think that was redirect so...

3 MR. CARTER: I'm sorry.

4 THE COURT: Miss Moore, you may step down, and
5 you are free to go.

6 MR. CARTER: Your Honor, we had one more
7 witness, but since we are real nice and considerate, we
8 are not going to call that person.

9 THE COURT: Are you resting your case?

10 MR. CARTER: We rest, Your Honor.

11 THE COURT: Does the defense -- prosecution
12 have any rebuttal?

13 MR. HILL: Can we have just a minute?

14 MR. EVANS: Yes, sir. If you don't mind, if
15 you would, give us a five-minute break.

16 THE COURT: Ladies and gentlemen, if you will,
17 step in the jury room for a few minutes, and we will
18 resume shortly. We will be in recess.

19 (A BREAK WAS TAKEN.)

20 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

21 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.

22 PROCEEDINGS WERE AS FOLLOWS:)

23 (THE JURY RETURNED TO THE COURTROOM.)

24 (THE WITNESS ENTERED THE COURTROOM.)

25 THE COURT: Do you solemnly swear or affirm the
26 testimony you give in this case will be the truth, the
27 whole truth and nothing but the truth, so help you God?

28 THE WITNESS: I do.

29 THE COURT: Come around, please, and have a

1 seat.

2 (THE WITNESS WAS SEATED ON THE WITNESS STAND.)

3 State your name for the record, please.

4 THE WITNESS: Randy Keenum.

5 THE COURT: You may proceed.

6 RANDY KEENUM, Called on behalf of the State, having been
7 duly sworn, was examined and testified as follows:

8 DIRECT EXAMINATION BY MR. :

9 Q. Mr. Keenum, if you would, I want you to speak loud
10 enough where everybody in the jury can hear you. Okay?

11 A. All right, sir.

12 Q. Where are you employed?

13 A. I'm employed with Chip Incorporated out of Moorehead
14 right now.

15 Q. All right. I want to direct your attention back to
16 the morning of the murders at Tardy Furniture on July 16 of
17 '96. Where were you employed at that time?

18 A. Angelica uniform.

19 Q. What was your job?

20 A. I was in maintenance.

21 Q. And who worked with you in maintenance?

22 A. Johnny Butts and Kenny Johnson.

23 Q. Okay. Did you know a person by the name of Doyle
24 Simpson?

25 A. Yes, sir.

26 Q. How did you know him?

27 A. Doyle worked there. He was our custodian, janitor.

28 Q. What were your hours that day?

29 A. From 6:30 to 3:00.

1 Q. Did you have an occasion to see Doyle Simpson there
2 that morning?

3 A. Yes, sir.

4 Q. I want to specifically direct your attention to the
5 time between 9:20 and 10:20 that morning and ask you if you
6 know where Doyle Simpson was.

7 A. From 9:20 to 9:40 or so, Doyle and I were in the
8 shop taking break. We had some buzzers that went off. So I
9 know what time it was.

10 Q. All right. Did Doyle ever leave work that morning?

11 A. Not to my knowledge. No, sir. I saw him after the
12 break over on another line cleaning up where I was working.

13 Q. Okay. So after the 9:40 break, he was still there
14 working and you saw him.

15 A. Yes, sir.

16 Q. Is there any possible way that he could have left
17 and driven away from there any time between 9:20 and 10:20
18 that morning?

19 A. No, sir.

20 MR. EVANS: I tender the witness, Your Honor.

21 CROSS-EXAMINATION BY MR. DEGRUY:

22 Q. Good afternoon, Mr. Keenum.

23 A. How you doing?

24 Q. Were you the head of maintenance?

25 A. No, sir.

26 Q. And your job in maintenance was to repair the sewing
27 machines.

28 A. Sewing machines. Um-hum. And whatever else tore up
29 around there.

1 Q. You said you had a buzzer go off. What is a buzzer?

2 A. It's to alert the ladies on the machine that it is
3 break time. We had one that went off at 9:20 and then another
4 one at 9:30. Half the plant went on break at 9:20. The other
5 half went from 9:20 to 9:30, from 9:30 to 9:40.

6 Q. So did you take two breaks?

7 A. Yeah.

8 Q. And when you weren't on break, you had machines to
9 work on.

10 A. Yes, sir.

11 Q. So you weren't just sitting around watching Doyle.

12 A. Well, when I left from break, I went over to a line
13 where I was working, and Doyle was cleaning up on that line.
14 We had some machines that trimmed off some material, and it
15 went in a garbage bag. We emptied those bags, swept the floor
16 and all that, you know. And he was working on that line, just
17 up and down it where I was.

18 Q. And you are saying you didn't -- you were working on
19 the sewing machines down the line. How many machines were
20 there? How many are we talking about?

21 A. Oh, 20. I'm not exactly sure of that. Yeah, it was
22 around 20.

23 Q. Now, you remember the day of the killings.

24 A. Yes, sir.

25 Q. It was -- it wasn't that day that the police asked
26 you about the whereabouts of Doyle, was it?

27 A. I don't think so.

28 Q. What, what was Doyle Simpson wearing that day?

29 A. I don't remember, sir.

1 Q. Did you go on -- did you go on lunch break with him?

2 A. No. This was just a morning break. You know, we
3 wouldn't go to lunch till 12:00.

4 Q. You are saying you don't go to lunch until 12:00.

5 A. Right. This was like a breakfast break, I don't --
6 just a mid-morning break.

7 Q. Did you ever give a written statement to the police,
8 they ask you any --

9 A. No, I don't think so. I don't remember it if I did.

10 Q. Y'all take these breaks. You don't -- you don't
11 punch in and out. It is just a set break time.

12 A. No, sir. No.

13 Q. Did you ever see Mr. Simpson leave that morning to
14 go outside?

15 A. No, sir. Never did.

16 Q. What time did you get there?

17 A. I got there at 6:30. I open the plant every
18 morning.

19 Q. Okay. What time did he arrive?

20 A. I think Doyle got there around 7:00.

21 Q. Is that his normal time to start work?

22 A. Yes, sir.

23 Q. And you didn't see him leave at all.

24 A. At all. No, sir.

25 MR. DEGRUY: That is all I have, Your Honor.

26 THE COURT: Redirect?

27 MR. EVANS: No redirect, Your Honor.

28 THE COURT: Mr. Keenum, you may step down, and
29 you are free to go.

1 THE WITNESS: Thank you, sir.

2 MR. EVANS: Your Honor, the only other witness
3 we had is not here, so the State is prepared to finally
4 rest.

5 (THE TESTIMONY PORTION OF THE TRIAL WAS CONCLUDED.)

6 (THE TRANSCRIPT RESUMES AS THE CASE IS BEING SUBMITTED TO
7 THE JURY.)

8 THE COURT: Ladies and gentlemen of the jury,
9 you have heard all the evidence. You have been
10 instructed on the law by the Court.

11 Throughout the course of the trial so far I have
12 asked you not to discuss the case with anyone or among
13 yourselves. Now you do so.

14 And we have got two alternates that I am going to
15 excuse at this time.

16 Cynthia McBride and Shirley Annette Blakely, we do
17 appreciate your service, but we do still have a complete
18 panel. So you may go.

19 And the remainder of you, if you will step in the
20 jury room.

21 I know it's right about the time you've been going
22 to lunch every day. So if you want to go to lunch, write
23 a note out. The bailiff will give it to me.

24 I mean up to this point the Court and the attorneys
25 have kind of been telling you how to go. You're in
26 charge now. We are here to do whatever you want.

27 So if you want to recess at any time for lunch or
28 for anything else, you send a note to the bailiff and let
29 me know that. Otherwise, I'll just let you proceed to

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

V.

CAUSE NUMBER 2003-0071-CR

CURTIS GIOVANNI FLOWERS

EXCERPT OF THE TRIAL PROCEEDINGS HAD AND DONE IN THE ABOVE
STYLED AND NUMBERED CAUSE, BEFORE HIS HONOR, JUDGE JOSEPH H.
LOPER, JR., CIRCUIT JUDGE, FIFTH CIRCUIT COURT DISTRICT OF THE
STATE OF MISSISSIPPI, AND A JURY OF TWELVE MEN AND WOMEN, DULY
IMPANELED.

REPORTED BY OFFICIAL COURT REPORTER

TAMMY L. THOMAS, CSR, RPR (CSR NUMBER 1304)

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1 IN OPEN COURT ON MONDAY, SEPTEMBER 29, 2009.)

2 MR. HILL: Ladies and gentlemen of the jury,
3 you heard the Court tell you today that it is your sworn
4 duty, your sworn duty, to consider the evidence that has
5 been assembled before you in the last four days we have
6 been putting on evidence - Wednesday, Thursday, Friday
7 and Saturday. Four days you have seen evidence. You
8 have listened to testimony. And now it is time for you
9 to consider, consider and put together all the evidence
10 that you've heard.

11 The evidence that you heard is probably the evidence
12 of the greatest crime that ever happened in this town.
13 Four completely innocent and helpless people were gunned
14 down in cold blood at Tardy Furniture company.

15 We put on 22 State's witnesses. I don't know how
16 many individual pieces of evidence. But I want you to
17 consider that this was pretty much an all out
18 investigation. The Winona Police Department, Montgomery
19 County Sheriff's Department, the Mississippi Highway
20 Patrol Investigative Division, the D.A.'s investigators -
21 they all worked together hand-in-hand for a long time.

22 As you will recall, when Sheriff Thornburg got to
23 the scene, it was secure. Chief Hargrove did an
24 excellent job of arriving within about a minute of the
25 call. And remember that we know exactly when the call
26 came. The call was placed -- because of the E.O.C.
27 dispatch, we know that that call went out at 20 minutes
28 after 10:00 on Tuesday morning, July 16, 1996. We know
29 that the crime had to happen before that.

1 Mr. Sam Jones walked into that store that morning
2 going to work. Miss Tardy had already called him. That
3 means that she was already in the store and had the store
4 open and prepared for business.

5 Mr. Sam was a trusted employee that had worked there
6 over 14 years, something like that. She had called him
7 to come show the new guys, the new guy, Derrick Stewart,
8 Robert Golden, they were new employees. Mr. Sam knew how
9 to load and secure furniture and how to get it delivered.
10 He was going to come in that morning and show those young
11 men how to do that job and help them do it.

12 And when he walked in the store, one of the first
13 things he saw was Miss Bertha Tardy in the aisle, way
14 down in the back of the store laying on the floor. As he
15 walked closer, he noticed Mr. Tardy wasn't there.

16 He heard a gurgling sound on the floor near the main
17 counter. And as he walked up there, he saw young Derrick
18 Stewart laying there with his baseball cap off his head.
19 The gurgling sound was Derrick trying to breathe. Sam
20 said he looked down and he saw -- every time that boy's
21 heart would beat that blood would flow out of his eyes,
22 flow over his face, over his eyes.

23 Sam said his first instinct was to go to the phone,
24 but he said he did not. He didn't want to touch
25 anything. So he backed out, and he ran up to Coast to
26 Coast, got Miss Sue Garrett up there, called the police
27 and an ambulance. That is the call that went out at
28 10:20 a.m.

29 Chief Hargrove, thank goodness, was not far away.

1 He was already in his car. He was already moving. And
2 all he had to do was drive a short distance to the store.
3 As he was -- he got out immediately and went in. The
4 first thing he saw was the carnage.

5 He immediately backed out and got on his car radio
6 and began calling for backup and support. He had his
7 people calling to the crime lab, the highway patrol and
8 the D.A.'s office within just a few minutes.

9 When Chief Hargrove went back in the store, Sam by
10 that time had come back from Coast to Coast and joined
11 him. They went back in the store. They saw footprints.
12 They were there, and they saw the footprints in the
13 blood.

14 Those footprints are important evidence. What this
15 evidence does for you, ladies and gentlemen, is it puts
16 the shoes of the killer on the defendant's feet. This
17 evidence is going to show you that Curtis Flowers was the
18 one wearing the shoes that stepped in Derrick's blood
19 when he was running out of the store.

20 He either ran out of the store just before Mr. Jones
21 got there or while Sam was up at the store calling for
22 help, because it was close. It was close.

23 Miss Tardy, Miss Rigby, Mr. Golden were dead. The
24 gunshots to the brain killed them pretty quick. Derrick
25 lived a few days, ultimately passed away.

26 Ladies and gentlemen, I want you to think just a
27 minute. When Sheriff Thornburg got there just after they
28 were coming out, they got out with Derrick, he took his
29 pen and he reached down and put it in one of those shell

1 casings and picked it up and looked on the end just like
2 that. (Indicated.) It was a .380 auto caliber. He put
3 it back down right where he got it.

4 At that moment Sheriff Thornburg knew what the
5 murder weapon was. He knew it was a .380 auto caliber,
6 semi-automatic pistol. And as fate would have it, within
7 just a few minutes, 30 minutes or so, 45 minutes, I don't
8 remember exactly, a few minutes, a call came in of
9 somebody burglarizing somebody's car up at Angelica on
10 the highway, off the highway.

11 When Sheriff Thornburg got out there, he found out
12 that Doyle Simpson had reported that somebody had broken
13 into his car and stolen his pistol. What kind of pistol?
14 A .380 auto, semi-automatic.

15 They talked to a witness that day that saw the
16 person there. The next day they were putting a name to
17 the person. That very same day when they -- when all the
18 investigators began talking, they were thinking, who
19 could -- who would do such -- I mean who, who is
20 connected? What is the connection here? Is anybody
21 dissatisfied? Has anybody got a problem?

22 Only thing they could come up with is Mr. Flowers
23 had been terminated some few days before. So they went
24 and talked to Curtis. As a matter of fact, they were
25 talking to him a little before 2:00 p.m. that day. They
26 just interviewed him, just to see, just checking out,
27 being thorough.

28 Curtis had some scratches on his arm. Just, just
29 precautionary, thorough investigation. They did a

1 gunshot residue test on his hands, both of them. Checked
2 his feet.

3 Now, the Court told you in those instructions that
4 he -- that the judge, his honor just got through reading,
5 that you are to look at a lot of things. You are to look
6 at the identity of whether the State has proven it - and
7 I am going to go through this more. But just to touch a
8 couple of topics here - the identity of the defendant.

9 I want y'all to keep in mind that every single
10 witness, every single witness that testified about the
11 identity of Curtis Flowers, these, these non-law
12 enforcement people, they have already known Curtis for
13 years.

14 This is not a situation -- except for Porky, and I
15 want to address him separately, Mr. Charles Porky
16 Collins. This is not the situation where you have
17 somebody seeing somebody and getting a glimpse of them,
18 and it is the first time they ever saw them and then
19 identify them.

20 These people knew Curtis. They lived with him.
21 They were members of this community with him. It wasn't
22 a matter of if they knew who he was. They knew him well.
23 They recognized him immediately. And there was no
24 question about who it was.

25 The exception I mentioned, Mr. Collins, he did not
26 know Curtis. He had no reason whatsoever to misidentify,
27 attempt to misidentify, have any bad blood. He -- in his
28 transcript he said he had never -- he didn't know of
29 Curtis Flowers, never seen him before as far as he knew.

1 So there is certainly no reason for him to misidentify
2 him.

3 Now, what they did was they gave Mr. Collins two
4 line-ups, two picture line-ups. You've seen them.
5 Note - this is important - the first photo line-up did
6 not have Curtis Flowers in there. The man that he saw,
7 they didn't have him in there.

8 So if he had picked out somebody in that first one,
9 he would have been wrong. He did not pick out anyone.
10 He didn't jump just to point out somebody. He said the
11 man I saw is not in this group of pictures. They showed
12 him another set of pictures and he said yeah, that's him,
13 number 4, right there. That's the man I saw.

14 Highway Patrol Investigator Wayne Miller, not a
15 suggestive line-up, no question about the identification.
16 The man was sure that was him. He even signed it.
17 You'll see it when you get back there, if you take a good
18 look at it. There is the defendant's photograph right
19 there. Mr. Collins, who is no longer with us, signed it
20 Charles Collins, 8-24-96, 11:25 a.m. There it is.
21 That's got Miller -- Wayne Miller's initials and date.

22 So the people that did know him recognized him
23 immediately. The man that didn't know him was not fooled
24 when they showed him a set of photographs when the
25 defendant's picture was not in there. He was not fooled
26 when they showed him a set of photographs when the
27 defendant's picture was in there. Now, you've also --
28 that is as to identification.

29 You've, you've talked -- you've heard the Court talk

1 to you about witness credibility. I want you to think
2 about those witnesses that got up there. Did you see any
3 hint that they were fabricating anything, that they had
4 any reason to gain? The only reason they testified as to
5 what they did is because they were telling you the truth
6 as best they could.

7 There were two witnesses that admitted they had told
8 something wrong before. One of them was Doyle Simpson.
9 Doyle said yeah, when they first asked me I didn't tell
10 them exactly where I got my gun. And the reason he
11 didn't is he was trying to protect Curtis. Curtis was
12 his nephew.

13 Odell Hallmon said yes, first time I talked, I
14 talked for -- I was a witness for Curtis. I testified
15 for Curtis to try to help the defendant get off, to be
16 found not guilty or try to give him an advantage at
17 trial.

18 Nobody, nobody from law enforcement or the
19 prosecution or anything had anything to do with turning
20 Odell around. You know what turned Odell around? Two
21 things. His sister knew what he had done. She told his
22 momma. And his momma told Odell.

23 Now, Odell has served his time, and he was out. He
24 was not in jail. When he got -- him and Curtis got
25 together to fabricate a lie. They were in jail. But
26 after that, Odell was out of jail. Odell was at home
27 with his momma and his sister, and they knew what Odell
28 had done. And Odell knew what Patricia had seen.

29 And Odell's momma is the one that said son, you

1 better get this straightened up. Odell is the one that
2 voluntarily called and said look, I got something I gotta
3 tell y'all.

4 He said Curtis got me to say that. Curtis told me
5 he killed those people, and he needed me -- he would get
6 me cigarettes. And if he could get out, gain any
7 advantage by this, he would give me money. So Odell was
8 trying to help Curtis too.

9 The only two people who have ever said anything
10 different are ones that can be directly, directly
11 attributed to Curtis Flowers. And they now have come
12 forward and have told you what they know.

13 Now, let's go back over this evidence right quick.
14 I have told you about Mr. Sam Jones, Officer Hargrove
15 arriving first on the scene and seeing those shoe prints
16 and guarding them.

17 Mr. Eskridge also, Barry Eskridge from Med Stat, he
18 is the one that came in and it was under his supervision
19 that they got Derrick out, got him loaded on the
20 stretcher in a ambulance and whisked him away to the
21 hospital to try to save his life.

22 He saw those prints, and he immediately also
23 recognized the significance of them. He had worked a lot
24 of crime scenes in Jackson, and he knew. He knew when
25 you see a bloody shoe track in some living gunshot
26 victim's blood at the scene that you've got a shooter who
27 has stepped in the blood as he is leaving the scene. He
28 knew that, and he knew that was important.

29 And Mr. Eskridge and Chief Hargrove guarded that to

1 make sure that nobody, nobody even got around it. They
2 protected that. They protected the crime scene. And
3 they protected that area of the crime scene in
4 particular.

5 Dr. Hayne came in and gave you his -- Dr. Hayne has
6 been doing forensic medical pathology for, I don't know,
7 close to 40 years, I think, mid-30, -40, something like
8 that. He has been doctoring a long time.

9 I want y'all to remember this too. Here is
10 something really significant. Robert, Mr. Robert Golden,
11 of the four victims, he had been shot twice in the head.
12 Mr. Golden was shot point blank; that is, muzzle to the
13 side of his head, right there. (Indicated.) Bam.

14 Now, we know that because gunpowder, gunshot
15 stippling and residue. They call it tattooing. In other
16 words, where the gun fire and the hot particles of
17 gunpowder burn into the skin around his ear. So they
18 knew where that entry wound was, and they knew it was
19 skin close.

20 What that means is that Curtis put the gun up to
21 Robert's head right there. (Indicated.) Just like that.
22 Just like that and pulled the trigger. And there was
23 something more going on between them, because after he
24 went down -- and you know after a gunshot to the side of
25 the head right there, you know Robert's going to go down,
26 and he did. And when he went down, Curtis put the gun in
27 the top of his head and shot him again, right there in
28 front of the counter.

29 I don't know what was going on with Robert. It

1 might have been that he thought Robert was the most
2 formidable opponent he was going to have to keep him from
3 taking that money. I don't know if it was Robert that
4 was out front of the store arguing with him when Porky
5 saw him.

6 I don't know if perhaps Robert was just getting to
7 work and Curtis was trying to enlist his aid or telling
8 him that he wanted him not to come in right there or
9 what. I don't know. I don't even know if it was Robert.
10 But something significant, seems to me, being the fact
11 that he had -- he shot him twice. He made sure that he
12 neutralized, that he terminated Robert. He made sure.

13 Now, --

14 THE COURT: Mr. Hill, you've got five minutes.

15 MR. HILL: Thank you, sir.

16 Ladies and gentlemen, I want to talk to you about
17 the shoes. We talked about those shoe tracks. Melissa
18 Schoene came in there and did one-to-one examination
19 grade, ruler included photography. She took pictures of
20 those tracks. So we know that we've got good photographs
21 of that.

22 Elaine Gholston, a neighbor, and somebody that knows
23 Curtis said she had seen him wearing Fila Grant Hill
24 shoes on at least two occasions and within a matter of a
25 month or so before the robbery. So we know Curtis was --
26 he had and was wearing Fila Grant Hill shoes. She saw
27 him.

28 She had testified before that he had them on that
29 day. But by this time, 12 years later, she, she wasn't

1 going to swear to something she didn't know for sure.
2 She couldn't say yeah, I now distinctly remember he had
3 them on, but she said I had said that earlier. And she
4 was under oath when she did.

5 Patricia Hallmon --

6 MR. CARTER: Your Honor, I object to that
7 comment about her saying that at some point before he had
8 them on the day before. There wasn't no testimony about
9 that in this trial.

10 THE COURT: The day before. I'm confused about
11 what you're objecting to.

12 MR. CARTER: If I'm not mistaken, Mr. Hill said
13 she had testified before that she saw Mr. Flowers with
14 Fila shoes on the day before.

15 THE COURT: That is not what he said.

16 MR. HILL: Miss Patricia Hallmon Odom saw
17 Curtis wearing shoes. She testified to you that she saw
18 him wearing those shoes the morning of the murders, the
19 morning of, because she, she saw him three times.

20 He was up about 4:45 or 4:55 in the morning. Now,
21 he is up early. Something is going on with Curtis. He
22 is up early in the morning. When she is out taking her
23 early morning walk, she sees him.

24 Miss Gholston sees him up early in the morning on
25 the porch smoking a cigarette. Both of those ladies seen
26 Curtis wearing Fila Grant Hill shoes, and Patricia saw
27 him running back to the house at about 7:30.

28 We know Curtis had those shoes, because Connie Moore
29 bought them and brought them into the house. And she

1 testified that she had bought them shoes. Maybe she
2 bought them for one of her kids, but Curtis was wearing
3 them. And when she was pressed on cross-examination, she
4 said there was a reason at that time that she didn't want
5 them found. You know, that was the pin drop, when
6 everybody is waiting with baited breath.

7 Now, we know that Curtis wore a size 10 1/2 shoes,
8 because the shoes he was wearing -- when they took the
9 shoes off his feet that day was a size 10 1/2. So we
10 know Curtis had those shoes on. We put the shoes on his
11 feet. Curtis was wearing the Fila Grant Hill shoes that
12 day and stepped in the blood and left the track.

13 Now, the gun, let me hurry to cover the gun. Doyle
14 Simpson's .380 was the murder weapon. We are going to
15 put that gun in Curtis's hands. This evidence has done
16 that for you.

17 The defendant knew Doyle Simpson well. He knew he
18 had the gun. He knew where he kept the gun. He knew
19 where Doyle worked, and he knew Doyle's car.

20 James Edward Kennedy who has known the defendant for
21 some time saw him walking off of the highway on to
22 Angelica, going toward, not too many yards before he got
23 to Angelica. Catherine Snow actually saw him touching
24 the car at about 7:15.

25 Sheriff Thornburg took pictures of the car where the
26 glove box had been broke or saw the picture or pointed
27 out where the glove box had been broken into. David
28 Balash testified that there was one gun that fired all
29 them casings, that all the projectiles and all the

1 gunshot evidence was consistent with one gun, one
2 shooter.

3 The gunshot residue on Curtis's right hand taken
4 that very day at about 2:00 that afternoon says that the
5 right hand of Curtis Flowers - and by the way, Curtis is
6 right-handed - is the one that pulled the trigger on that
7 gun. He still had gunshot residue on his hand at the end
8 of four hours.

9 Seven people identified Curtis, at least seven that
10 testified, on the east side of Highway 51 that morning.
11 Those people are James Edward Kennedy, Catherine Snow,
12 Edward McChristian, Beneva Henry, Mary Jeanette Fleming,
13 Porky Collins and Clemmie Fleming.

14 Here is the -- here is the time line-up. Here is
15 the timeline. At about 5:00, give or take a few minutes
16 that morning, Miss Patricia Hallmon Odom saw the
17 defendant up during her morning walk. Between 6:30 and
18 7:00 Elaine Gholston saw the defendant on his porch
19 smoking a cigarette.

20 About 6:45 that morning Doyle Simpson arrives at
21 work with a gun in his car. At 7:15 a.m. James Edward
22 Kennedy sees the defendant walking to Angelica. A few
23 seconds after that, about 7:15, Catherine Snow sees the
24 defendant on Doyle Simpson's car.

25 About 7:30 to 8:00, somewhere along in there, Edward
26 Lee McChristian said he saw the defendant on Academy
27 walking away from the direction of Angelica going back
28 towards where he lives.

29 THE COURT: Mr. Hill, the time you had

1 requested is expired.

2 MR. HILL: Thank you, Your Honor.

3 At about 7:30 Patricia Odom saw the defendant
4 running back home, running up to his back door. At about
5 9:15 to 9:30 Miss Beneva Henry saw Curtis Flowers on
6 Campbell Street heading towards Tardy Furniture.

7 A little after that, around 9:00, after 9:00, Mary
8 Jeanette Fleming met Curtis Flowers walking on the
9 sidewalk on the end -- closest end of Campbell Street
10 closest to Tardy's. Porky Collins testified that he saw
11 the defendant in front of Tardy's arguing with somebody.

12 Clemmie Flemming testified that at about 10:00 she
13 saw him running away from the back of the store. She saw
14 Curtis Flowers running like somebody was after him,
15 running from the back of the store, back toward -- down,
16 cutting across the corner of Carrollton, up toward
17 Church, go back toward Campbell Street. And then at a
18 little after 10:00, Sam Jones found the bodies. At 10:20
19 the call came out.

20 Now, one other thing -- I'm trying to hurry so that
21 I don't over stay my welcome here. I want to tell you,
22 ladies and gentlemen, in this case there is a lot of what
23 we call interlocking corroboration; that is, that each of
24 the witnesses backed up, corroborated and supported and
25 confirmed the testimony of the other witnesses.

26 For instance, James Kennedy said he saw him there
27 that morning. Catherine Snow also knew him and said she
28 saw him at about the same place, about the same time.
29 Edward McChristian said he saw him walking on Academy

1 going back to his house.

2 Miss Patricia Hallmon Odom said she saw him coming
3 back to the house, running toward the back door. Beneva
4 Henry later on in the morning said she saw him on Camel
5 going towards Tardy. Miss Mary Jeanette Fleming saw him
6 on the other end of the street even closer to Tardy's,
7 going in the direction of Tardy.

8 Porky Collins said he saw him in front. Clemmie
9 Fleming said she saw him in the back running away. Sam
10 Jones, Johnny Hargrove, Barry Eskridge all testified that
11 they saw bloody foot tracks and protected them.

12 Doyle Simpson said he had a .380 that was stolen.
13 Bill Thornburg found .380 casings at the scene of the
14 crime. Doyle Simpson said the shells he had in his gun
15 were mixed aluminum and brass casings. David Balash said
16 that what he found were aluminum and brass casings at the
17 scene of the crime.

18 Now, I want to ask you some questions, ladies and
19 gentlemen. Who had some kind of motive or knowledge
20 about some connection with the store? Curtis Flowers.
21 Who had been recently released as an employee? Curtis
22 Flowers. Who had some shoes matching those bloody
23 tracks? Curtis Flowers.

24 Who was seen at the very place the gun was stolen?
25 Curtis Flowers. Who knew where the gun was kept? Curtis
26 Flowers. Who had gunshot primer residue on the back of
27 his right hand? Curtis Flowers. Who is a right-handed
28 person? Curtis Flowers. Who was seen running back to
29 his home at 7:30 a.m. in the morning? Who was seen

1 running from the back of the store? Curtis Flowers.

2 Who was seen on Front Street before the murders?

3 Curtis Flowers. Whose shoes were missing, never located?

4 Curtis Flowers. Who lied about his whereabouts and said

5 he never was even on the east side of 51? Curtis

6 Flowers. Who was seen heading in that direction? Curtis

7 Flowers. Who tried to bribe a witness to lie for him?

8 Curtis Flowers.

9 Who made the admissions to his cellmate and said he

10 did, in fact, kill those people? Curtis Flowers. Who

11 wears a size 10 1/2 shoe? Curtis Flowers. Who left here

12 and went to Texas sometime later? Curtis Flowers. Who

13 changed his story from his first statement to his second

14 statement? Curtis Flowers.

15 And ladies and gentlemen, finally, who killed Robert

16 Golden? Curtis Flowers. Who killed Bertha Tardy?

17 Curtis Flowers. Who killed Carmen Rigby? Curtis

18 Flowers. Who killed Derrick Stewart? Curtis Flowers.

19 Who killed all those four people? Curtis Flowers. Who

20 robbed that store? Curtis Flowers.

21 How do we know there was a robbery? The money is

22 gone, and it was there when they opened up. And it was

23 gone at 10:00. The money out of the register was gone.

24 We've got the document there to prove it. The bank bag

25 was standing wide open. The money was gone.

26 And if Curtis Flowers killed them people, Curtis

27 Flowers robbed at gunpoint that store.

28 THE COURT: You may proceed, Mr. Carter.

29 I said you may proceed.

1 MR. CARTER: Yes, sir.

2 Well, I told you earlier there are two sides to
3 every story so allow me to tell you what they didn't tell
4 you.

5 Surely this was a bad crime. Nobody can deny that.
6 I wouldn't deny it. I wouldn't try to. Every time I
7 deal with this case the facts seem to affect everyone.
8 I'm a human being. It would be just as wrong to get the
9 wrong person, and I stand here telling you that Mr.
10 Flowers is the wrong person.

11 Odell Hallmon is back in jail. That honorable --
12 that man of integrity, that man who wanted to do the
13 right thing. He is back in jail, and he needs some help
14 so he can get out some day. You can't trust Odell
15 Hallmon. We know that.

16 The State claims all of the evidence points to Mr.
17 Flowers and no one else. And it certainly will if you
18 don't look for anybody else, and you only seek Mr.
19 Flowers, and you only produce what goes toward Mr.
20 Flowers. If you do that, then everything is going to
21 point toward him. There is no doubt about it.

22 I told you before there was a fixation on Mr.
23 Flowers. There was. And I also told you that you can't
24 convict somebody based on conjecture with speculation and
25 surmise. The judge has given you an instruction telling
26 you that. You can't do that.

27 If y'all convict someone, throw them away, you need
28 honest and reliable and trustworthy evidence. And you
29 need evidence that is not induced by a reward. And that

1 reward came early, as Mr. Miller said, kind of early.
2 Came in July. Nobody gave no statements seeing Mr.
3 Flowers until that money came up. And you need honest
4 and reliable people doing the investigation.

5 Now, I like Mr. Miller, Mr. Andrews and Mr.
6 Hargrove. I think they are nice people. I can go
7 fishing and hang out with them. I like police officers.
8 But I also know that they have a job. They have a
9 responsibility, and they have to do it right.

10 And you heard me ask who was the -- who was the
11 leader. Who was the first responder? You see, they know
12 I know that the first responder has a certain
13 responsibility. They know I know that the investigator
14 has a certain responsibility. And they know I'm going to
15 ask if they followed it.

16 So what do they do? They won't tell you who the
17 lead investigator was, because they know I am going to
18 ask them. I was going to show that they didn't do what
19 they were supposed to.

20 So, what do we have? An investigation without a
21 leader, if you want to believe that. But you know that
22 if a fellow shows up, took video and didn't nobody tell
23 him to do that, some folks showed up and did a lot of
24 things nobody told them to do.

25 And we know that Chief Hargrove felt inadequate to
26 do the job. He was the police chief. So he called
27 Mississippi Highway Patrol, and they came over here to
28 assist and to take over, but they don't want to say they
29 did it. We know they did. I know they did. You know

1 they did. Why would they not come clean about that? I
2 don't know, but I have my suspicions.

3 I don't blame Chief Hargrove for being amazed and
4 overwhelmed by this. This would overwhelm anybody.

5 Now, we know -- you saw pictures of dead bodies
6 here. Unfortunately, you had to see that, and you saw
7 pictures of various things. But there are many, many
8 things you didn't see pictures of, you didn't see any
9 video of. And all you have is what they say twelve years
10 later.

11 An investigation has to have thorough notes, has to
12 have video, has to have photographs. And you don't go
13 out there and just selectively photograph and video what
14 you want to. You video everything. You shouldn't have
15 to rely on those officers' memory. They shouldn't have
16 to rely on it. That is why you take notes. That is why
17 you do video. That is why you take pictures. That is
18 just the way it is.

19 If they had taken a video of Porky Collins making
20 his identification, we wouldn't have to rely on them. We
21 wouldn't have to rely on their memory. We would have
22 some neutral evidence how he picked him, how he selected
23 him.

24 And the same is true about Catherine Snow, who said
25 she saw somebody, said she saw Mr. Flowers. She didn't
26 say it was Mr. Flowers when she talked to the police the
27 first time. She didn't say it was Mr. Flowers when she
28 talked to them the second time. She claimed she was
29 scared.

1 Yes, she had the police on her side, and she later
2 picked him out of a line-up supposedly. Where is that
3 line up? Did you see that one? Did you see that photo
4 array? No. All you've got is their word.

5 Now, Mr. Evans told you that Patricia Sullivan,
6 James Kennedy, Edward McChristian, Beneva Henry, Mary
7 Jeanette Fleming and Porky Collins saw Mr. Flowers on the
8 day of the crime. But let's talk about what they had on.

9 They saw him at this certain time. Mr. Kennedy saw
10 him with a black shirt or sweater and white pants. Mr.
11 McChristian saw him later, and I think he said he didn't
12 remember what he had on. Patricia Hallmon -- trust your
13 own memory in case I'm wrong with that. Miss Henry saw
14 him, said he had on some white shorts.

15 Mary Jeanette Fleming saw him and said he had on
16 some brown pants with a white shirt and a gray jacket.
17 Patricia Sullivan said he had on some black silk-like
18 wind suit pants, I think, a white shirt. And Mr. Collins
19 said he got a quick glimpse, and he didn't know what he
20 had on. Catherine Snow saw him, and the only thing she
21 could remember was a white, some kind of t-shirt. But
22 trust your own memory on that.

23 Now, Mr. Flowers wasn't arrested till six months
24 later. And ladies and gentlemen, I am quite offended. I
25 am going to be real honest with you. They say that Mr.
26 Flowers had a motive. That they proved a motive to go
27 down there and kill those four people is just a
28 falsehood.

29 Mr. Flowers testified that he broke the batteries.

1 It was his fault. He admitted it. He said his check
2 deserved to be taken. Miss Tardy loaned him some money.
3 She didn't want him to go through the 4th of July
4 completely broke, I imagine.

5 Mr. Flowers didn't go back to work. Mr. Flowers had
6 people in town, friends, family. So he didn't go back.
7 And she must have told him she was going to take his
8 check. But it appears that she wrote it out, that she
9 was going to give it to him anyway.

10 Ladies and gentlemen, you find the motive in that.
11 The motive doesn't exist, because he said it exist. It
12 exists if it's proven, and it hasn't been proven. There
13 is no proof that there was any hatred or enmity between
14 Miss Tardy and Mr. Flowers. That is the way it is.

15 You heard Mr. Flowers' statement. You read it. You
16 heard what he said. She didn't fire Mr. Flowers to make
17 him mad. Mr. Flowers just -- he hadn't shown up.

18 None of the eyewitnesses gave a statement right
19 away. That reward was out when every one of them talked.
20 Catherine Snow gave a statement on 8-19-96. She gave
21 another one. No, I take that back. She actually
22 so-called identified Mr. Flowers on 18 -- I'm sorry,
23 August 19, 1996.

24 And she gave a statement on 7-16-96 she didn't see
25 him. She saw Mr. Flowers. She gave a statement on
26 7-25-96 that she named Mr. Flowers. And actually, on one
27 of those occasions she said she saw a guy who's 5'6".

28 Miss Henry. She gave a statement on September 3,
29 1996. Edward McChristian gave a statement August 15,

1 1996. Mary Jeanette Fleming gave a statement February
2 13, 1997. Clemmie Fleming gave a statement April 11,
3 1997.

4 Patricia Sullivan gave a statement August 7, '96.
5 Porky Collins gave a statement March 10, 1996. Although,
6 he talked to them saying he had seen somebody on the
7 first day. James Kennedy gave a statement on 9-17-96.

8 Ladies and gentlemen, we know what money will make
9 people do. We know that. I don't even have to talk
10 about it.

11 Now, they want you to believe that it's clear, it is
12 absolutely clear Mr. Flowers did this and that there is
13 no contrary testimony. Of course, we know that, that is
14 not true.

15 We have dueling testimony, stories in this case.
16 Connie Moore testified she allowed the police to come to
17 her house and search at least two times, and it was
18 probably more than that.

19 And she didn't stop them from taking anything. She
20 didn't try to slow them down. She didn't try to hurt the
21 investigation. She left it totally up to them. She gave
22 them the box. They got the box.

23 They claimed they searched -- I mean checked her
24 son's shoes. I said well, how did you check them. Did
25 you measure it? No. No. We just asked him what size he
26 wore. But they didn't even check the other child, the
27 oldest one. Connie said she bought them shoes, and she
28 bought them for her son.

29 Now, we also had Clemmie Fleming who said she saw

1 Mr. Flowers running. Her own sister, her own sister, who
2 the police never talked to, didn't want to talk to, came
3 in here and said she knows that is not the truth because
4 her sister work all day. Now, you tell me if there is
5 something about her that makes an impression, makes her
6 not believable.

7 Odell Hallmon, the person Mr. Evans wants you to
8 believe is honorable and trustworthy, who had this
9 epiphany, had this great change at some point is back in
10 jail. But he testified. He said at some point that his
11 sister lied to get that reward money, and he claimed Mr.
12 Flowers got into a lie.

13 A man in jail on death row promised him money, a
14 broke man, ain't got no money. And he did it because he
15 is going to get some money at some point later on. Who
16 would believe that?

17 And Mr. Evans wants you to believe that a person who
18 double speaks, that says one thing today and another
19 thing tomorrow, should be believed by you. You know you
20 shouldn't, but if you want to believe him, I can't stop
21 you.

22 The people who claim they saw Mr. Flowers on that
23 day, they are either lying or they did see him on a
24 different day. We know nobody would change clothes that
25 many times. We know that.

26 Mr. Collins, this elderly gentleman that you didn't
27 get to see, who did the best he could, told us the truth,
28 I guess, the best he could, he admitted he had problems
29 with colors.

1 He admitted he had problems forgetting. I think he
2 forgot something his wife asked him to get. He went to
3 the store, got the wrong sparkplug.

4 I am not trying to talk about him. I am telling you
5 what he said. He admitted seeing two people. And
6 apparently, he said he saw light-skinned people.

7 Mr. Miller had -- you heard Mr. Miller's testimony.
8 Then you heard Mr. Evans testify and said he said he saw
9 two lighted-skinned people. That was Mr. Evans'
10 testimony.

11 And then Mr. Miller suddenly recalled that Mr.
12 Collins did tell him he saw two light-skinned people. I
13 said now, wait a minute, now, Mr. Flowers is not
14 light-skinned. Well, he said something like he was back
15 then. He has gotten darker. Now, I didn't want to
16 follow-up and ask him how that happened, because I don't
17 believe it happened.

18 Now, they want you to think that Doyle Simpson could
19 have been involved. They want you to think that his
20 brother -- no one else could have been involved. How did
21 they rule him out? Did you see any testimony or any
22 proof that they actually ruled them out in some
23 legitimate way?

24 They said they got projectiles out of a post at
25 Doyle's house. Where is the proof? Where is the
26 independent, the neutral proof? Where is the video?
27 Where are the pictures? Where is the proof that Connie's
28 boys' shoes were checked? Where is the proof that they
29 checked either kid?

1 Where is the proof that the police canvased the
2 neighborhood like they claim they did? They say it was
3 done. Where is the proof? Where is the original
4 document of who they talked to and what they said and
5 what houses they went to? There isn't any, but they want
6 you to believe they did it. They want you to believe
7 what you can't see and what they don't have and what they
8 didn't provide.

9 Where is the proof that the police department
10 maintained to get control of the crime scene? Now, I
11 believe they tried, that they made some effort. But
12 where is the checklist where you write down every person
13 that goes in and out?

14 A traumatic, a dramatic, a terrible situation that
15 happened down there. Your mind races. You are nervous.
16 You are excited. You have to make notes. You can't rely
17 on your memory. We know it. You know it, ladies and
18 gentlemen. I am telling you; I know you know it. They
19 should have had a checklist. They know they were
20 supposed to do that, but they didn't do it.

21 They want you to think -- where is the proof of lack
22 of suggestibility with respect to picking Curtis Flowers?
23 Now, the State can't tell me on that photograph that Mr.
24 Flowers is not standing out, is not larger than another
25 person in that photograph. That, frankly, hurts my
26 feelings. It suggests to me I am stupid. I am dumb. I
27 can't see. I can't think. I don't have a mind. I'm not
28 independent, that I believe anything that they say.

29 And if Mr. Collins saw two light-skinned people then

1 why is Mr. Flowers in here charged with this crime?

2 Now, Mr. Simpson put that gun in his car the night
3 before. If he put the gun in his car the night before
4 and Mr. Flowers wasn't there, Mr. Flowers wasn't there,
5 how does Mr. Flowers know he put that gun in that car?
6 They want you to believe that he did.

7 What, what is Catherine Snow so afraid of? She was
8 talking to the police. She was scared. Now, how is
9 Doyle protecting Curtis about lying about where he got
10 the gun from? You think about that and you let me know
11 if you come up with the answer on that. He was
12 protecting himself. That is what he was doing.

13 Odell Hallmon is nothing but a jailhouse snitch, a
14 person who commit crimes, repeatedly goes to jail, then
15 makes up stories so he can lessen his crime. So he can
16 get some help. That is what he is. That is all he is.
17 And in my opinion, Mr. Evans should be ashamed for even
18 calling him.

19 Now, Miss Gholston, now, you heard her testimony.
20 She got up there and she said she wasn't sure when she
21 saw him with some Filas on, but they didn't like that.
22 They know they needed something a little more immediate
23 than that.

24 They go -- they talk to her and they got her to
25 say -- the fact of the matter, if she ever saw Mr.
26 Flowers in Fila, she doesn't know when she saw him. She
27 doesn't know what else he had on. We don't go around
28 looking at people's shoes ordinarily.

29 I bet you nobody knows what kind of shoes I have on

1 or what kind of shoes I had on this whole week. Because
2 you have to have a reason to look.

3 Mr. Evans wants you to believe that a good citizen,
4 person with no record, all of a sudden gets mad because
5 he doesn't -- didn't get called back or forced to go back
6 to the job that he apparently didn't want, because he
7 didn't go back. He didn't go back after the 4th for all
8 those days.

9 But just get mad for no reason and go kill four
10 people. You kill four people, you have a good reason.
11 Mr. Flowers was getting unemployment at the time, read
12 the statement. Money was coming.

13 It is so obvious that Mr. Flowers didn't have any
14 motive to kill those people. They have to prove motive,
15 motive, ladies and gentlemen. They can't just say it.
16 They have to provide some proof, some independent proof,
17 something independent of them that you can trust.

18 And when they don't provide these things, then we
19 are going to speculation. We are going into surmise. We
20 are going to guesswork. And you should not have to
21 guess.

22 The Court is going to tell you that you can't rely
23 on surmise, speculation or guesswork to convict somebody,
24 convict someone.

25 Then they brought Mr. Keenum in here, who works with
26 Doyle Simpson. He didn't know what all Doyle did that
27 morning. He wasn't watching Doyle. He didn't even see
28 Doyle when Doyle went out to let his windows up. How
29 come he didn't see that? Windows down. He didn't see

1 that.

2 What was he doing? Back there stealing from the
3 company. How do I know he was stealing from the company?
4 Because he was taking more breaks than were allowed. He
5 is not honest.

6 Any of you familiar with police work know that lots
7 of lying going on during interrogation, lots of lying.
8 And it is not just coming from the defendant. The
9 defendants get told stories all the time. So-and-so said
10 this. So-and-so said this. So-and-so hadn't said
11 nothing. So-and-so doesn't exist. Then the defendant
12 changes his story. Lies happen all the time.

13 But you know what? When they found out he lied,
14 they didn't arrest him for it, because they knowing lying
15 isn't any proof that you committed a crime.

16 Mr. Flowers figured out. Who among you wouldn't
17 figure out that you might be a suspect when they keep
18 talking to you, they keep bringing you in? Wait a
19 minute. They are looking at me now. So you stand up.
20 You start thinking. You are trying to protect yourself
21 now.

22 This gunshot residue that was found on Mr. Flowers'
23 hand is so small you can't even see it. It is one
24 particle. You need a machine to see it. You can get
25 gunshot residue on your hand from a variety of reasons.
26 You can get it by picking up a pen that might have it.
27 You can get it sitting at a desk where somebody has been
28 that has shot a gun or had possession of a gun. It is so
29 easy to get.

1 One particle of gunpowder residue on your hand isn't
2 any proof that you shot a gun. It just isn't. You can
3 get it shaking hands or touching hands. If Mr. Flowers
4 killed four people, shot four people, he would have more
5 gunshot residue on his hands than that.

6 They are going to say he washed his hands. How do
7 you know? How do you know he washed his hands? What
8 proof do you have that he went and washed his hands? Or
9 if he washed his hands, why he didn't get it all off? We
10 just don't know.

11 So, we find ourselves here after several days and
12 you see lawyers walk around here. And you see the judge,
13 powerful man who rules on the evidence in this case. And
14 you see us lawyers. And you see yourself, who hasn't
15 been to law school.

16 And you may say, how did I wind up in such a
17 position playing this role. It wasn't my job. But I can
18 tell you, you are the most powerful entity in this
19 courtroom. You have more power than the judge. And you
20 certainly have more than the lawyers, because you are
21 going to decide what happened. You decide the facts.

22 You can decide whether this man goes to jail on this
23 weak, unreliable, speculative evidence. So you have this
24 great power. And when have you this great power --

25 THE COURT: Mr. Carter, the time you wanted is
26 past, but you certainly have got -- over all, your side
27 has more time.

28 MR. CARTER: Five more minutes, Your Honor.

29 So you have this great power. What question should

1 you ask yourself? Do you ask yourself how do I use this
2 power appropriately? How do I use it correctly? How do
3 I not abuse it? How do I act justly?

4 And ladies and gentlemen, I say you act justly by
5 following the law and the facts and rendering a just
6 verdict. I told you before you don't come here as bad as
7 these murders were to avenge something you believe
8 happened to somebody.

9 Now, great sympathy goes out to the victims. We all
10 have it. But your job is not to come here and convict
11 somebody because somebody is hung. Your job is to come
12 here and listen to the facts and follow the law and make
13 your decision based on what happened in this courtroom
14 and not what anybody said to you, not what you believe is
15 right based on how horrible these crimes were. And I
16 know they are horrible.

17 This case ain't about the defense. It ain't about
18 Mr. Evans or the prosecution. It's about the facts.
19 It's about what you heard on the witness stand.

20 Ladies and gentlemen, I urge you to do the right
21 thing. Thank you.

22 MR. DEGRUY: Thank you, Your Honor.

23 Good morning. What we are doing this morning and
24 what you are going to have to do this afternoon, it is
25 difficult to say good morning, but it's how we greet each
26 other.

27 When we started this process a week ago, you were --
28 the Court and the lawyers were questioning you, and you
29 went from over 300 down to the 12 of you. I know you

1 have been attentive. Many of you have been taking notes.
2 I have taken some notes too.

3 And as Mr. Carter has done and as Mr. Hill and then
4 later Mr. Evans will do, we are going to go through the
5 things that we think are important. But it is you that
6 is going to make this ultimate decision.

7 You talked about -- the Court has read to you the
8 instructions. Luckily, they are going to give you the
9 instructions. You are actually going to be able to
10 re-read them and go through them.

11 But when I talk about the evidence with you for
12 the -- for the few minutes I have here, I want to do it
13 in the context of these instructions, because we are a
14 country of laws.

15 What the Court has instructed you and has told you
16 the law is, you must follow. And that's what you assured
17 us you were going to do last Monday and Tuesday. And
18 then you took your oath Wednesday morning.

19 The first instruction I am going to mention to you
20 is Instruction Number 1. As you read through Instruction
21 Number 1, you'll find the judge tells you to do what we
22 all know, what everybody in this courtroom knows is going
23 to be the most difficult part of your job.

24 When the prosecution was talking about Derrick
25 Stewart, in particular, I know that some of you were
26 tearing up and even crying. And it's understandable.
27 You know, you all know that I have been involved in this
28 case for a couple of years now. It's, it's -- I know you
29 cried also when the picture of Derrick Stewart was

1 passed.

2 It's more difficult for me today to do this case
3 than it was before because my son is now 16 years old.
4 And you know, all I missed Friday night by being up here
5 working on this case is one football game. I am going to
6 see next Friday's football game. But not them. Mrs.
7 Stewart, Derrick's father has lost all that. I
8 understand that.

9 This is the most difficult instruction that you are
10 going to have, that you are going to have to follow. You
11 have to put that side. I can't tell you how to. But the
12 Court's instructed you you have to.

13 The next instruction that I want to point out to you
14 is Instruction Number 14. The judge talked about this
15 law. He was asking questions of you - I believe it was
16 on Tuesday - wanted to find out husband and wives and
17 close relatives on the jury.

18 And the point he was making and what he wanted to be
19 sure of was that you would be able to follow this law.
20 This law tells you that each one of you, each one of you
21 individually is going to have to make the decision.

22 You've got to deliberate with each other. You have
23 to consider each other. You have to respect each other.
24 But ultimately a decision, what verdict you individually
25 vote for is, is your decision to make.

26 We know that you've all taken your notes. The judge
27 has instructed you those are your individual notes. You
28 have your memory, your recollection of the evidence. You
29 have to talk back and forth with each other and try to

1 reach a consensus, but it is each one of you individually
2 that has to make a decision.

3 The Court has also given you an instruction,
4 Instruction Number 8, that talks about the identity
5 issue, how, how you are to consider the evidence of these
6 people who say they saw, saw Mr. Flowers. Things like
7 the time that elapsed from when they supposedly saw him
8 and when they told police. That is something you have to
9 consider. And we know that it's either days, months or
10 in one case it was all the way till the next April.

11 You are also -- the changing descriptions. Somebody
12 sees him in a sweater. Somebody sees him in a t-shirt.
13 Somebody sees him in black pants. Somebody sees him in
14 short pants. Somebody sees him in a cap.

15 This instruction, I think, particularly goes to Mr.
16 Collins' testimony. You were advised that Mr. Collins
17 was an older, white man. He admitted he had some memory
18 problems back in '96. He forgot things that morning. He
19 wore glasses, but he didn't have them on that morning.
20 Had trouble with shades of brown. Didn't see the line-up
21 for over a month.

22 And this was all based on the split-second glimpse
23 where he also was observing people's hands and he was
24 observing the car and he was driving. Surely, he was
25 attentive to the cars around him and things around him.
26 Split-second glimpse.

27 And we talk about this, this photo line-up and why
28 it's so important that the pictures all appear similar
29 and why you don't put somebody right up front. They said

1 well, you know, these were taken at the jail. They could
2 have -- even though they weren't arresting Mr. Flowers,
3 they could have just as easily taken the same picture of
4 him at the jail and put one in.

5 We know from the work that the groups like the
6 Innocence Project have done that suggestive photo
7 line-ups and mistaken identification --

8 MR. EVANS: Your Honor, that is not proper and
9 I object.

10 MR. HILL: I don't know any such thing.

11 THE COURT: There hasn't been anything offered
12 into evidence.

13 MR. DEGRUY: It is not evidence, Your Honor.
14 This is closing argument. We are able to comment on
15 anything.

16 THE COURT: You can comment on the evidence,
17 but I don't think you can comment on studies that have
18 not been presented.

19 MR. DEGRUY: Your Honor, our position is that
20 this is common knowledge, but we will move on.

21 THE COURT: You can state what you believe to
22 be common knowledge.

23 MR. DEGRUY: But the suggestive line-up
24 procedures are one of the leading factors in wrongful
25 convictions. And I'll be clear with that. I'm not
26 telling you that is in evidence. I am telling you that
27 it's, it's in newspapers and reports all over the state
28 of Mississippi and all over this country.

29 The next instruction is Instruction Number 11, is

1 what lawyers call an impeachment instruction. It is used
2 when people testify to different things and their prior
3 statements or inconsistent or contradictory statements
4 are presented.

5 This doesn't usually happen with an expert witness.
6 I can't remember in my experience ever seeing an
7 impeachment instruction apply to an expert witness.

8 But Melissa Schoene has directly contradicted
9 herself on numerous occasions. I understand she is a
10 college professor, and she is a wonderful lecturer. But
11 she was the C.S.I. It was her duty to document things.

12 She testifies earlier that she doesn't see pry
13 marks. She doesn't note anything. Nothing is in her
14 notes. And then as her testimony progresses, she later
15 adds in these facts.

16 She just flat-out lied in an earlier proceeding
17 about the color of the car.

18 MR. EVANS: Your Honor, I object to that. That
19 is a misstatement, and it is completely inappropriate.

20 THE COURT: He can testify about how he views
21 the evidence, and you can certainly testify about yours.
22 I'll overrule the objection.

23 MR. DEGRUY: The woman came in. She gave
24 testimony at a prior hearing. She said no way, that is
25 not a two-tone car. The sole purpose of that was to
26 discredit Miss Essa Campbell, to make her out to not know
27 what her own brother's car looked like.

28 Miss Schoene's credibility is critical to this case.
29 She had to back up and say well, well, the rulers in

1 there. Mr. Andrews, who, who clearly likes his student,
2 can't tell you anything about the job she did on taking
3 the pictures.

4 It's more than just placing a ruler in the picture.
5 It's placement of the camera. It's placement of the
6 flash. It's how she manipulates it. We cannot rely on
7 her word saying I did it all right. I didn't document
8 other things. I didn't note other things, but that,
9 trust me. I lie about things if I think I can get away
10 with it. Trust me on this one.

11 Doyle Simpson is another one who lied. This
12 instruction covers him. He said oh, I lied to protect
13 Curtis. It doesn't make any sense. He knew they were
14 starting -- and he told you. They were starting to say I
15 might have given him the gun. He felt like they were
16 looking at him, as I think they should have been. And
17 that's when he started making up lies. The only person
18 he was trying to protect was Doyle Simpson.

19 They brought Mr. Keenum in here to provide the alibi
20 for Doyle, why Doyle is not a suspect. As Mr. Carter's
21 pointed out, Mr. Keenum said he arrived, he was there.
22 He opened the plant when Doyle Simpson arrived at 7:00.
23 He never left till noon. Took his 20-minute break
24 together. But the rest of the day, we were there.

25 I don't know if Mr. Keenum is lying. He was working
26 on machines. He was doing other things. But we know
27 there is no way that Doyle Simpson could have been there
28 from 7:00 to 12:00, because when the sheriff arrived
29 Doyle Simpson wasn't there. And that was before 12:00.

1 Doyle himself said he left several times.

2 Essa Campbell told you she saw Doyle Simpson's car
3 between 9:30 and 10:00. He was not at Angelica between
4 9:30 and 10:00.

5 Catherine Snow is another friend of Doyle Simpson.
6 It -- she claims she knew Curtis, saw him but didn't talk
7 to the police. So her "I didn't want to be involved"
8 isn't true. She talked to the police, she didn't tell
9 them a name, because she didn't know it was Curtis. She
10 saw a man with a white t-shirt and a white cap. That is
11 what she told Doyle.

12 There has already been the discussions about the
13 motives. The judge has instructed you that not only are
14 you to consider the capital murder charge, you may also
15 consider the charge of murder on each count. You are to
16 view the evidence or lack of evidence in reaching that
17 decision.

18 You have already been through both. The prosecution
19 and Mr. Carter have talked about different perspectives
20 on the disagreement and the dismissal or whether or not
21 it was a dismissal. They presented that, that evidence.

22 I am going to tell you and the instruction tells
23 you. The instructions clearly make this applicable. The
24 difference between the two crimes is that if you don't
25 find the evidence beyond a reasonable doubt of the
26 robbery, then you may still consider the murder.

27 Mr. Matthews testified that he assumed the cash that
28 was on the reconciliation was taken out of the drawer,
29 out of this drawer. (Indicated.) Miss Schoene came in,

1 and she told us all about the scratched up counter that
2 is just not really a good surface for fingerprints. And
3 this wood, old wood, not a good surface. And she
4 completely ignored the shiny, metal handle, the metal
5 inlay.

6 Now, she told us she got some fingerprints, some
7 lifts, and she sent them off. You hadn't heard anybody
8 come in here and say on those two, the two points in this
9 picture that would be touched, weren't touched. They at
10 least were not touched by Curtis Flowers.

11 THE COURT: Mr. de Gruy, you have about two
12 minutes left.

13 MR. DEGRUY: I am going to talk briefly about
14 the shoe marks that Joe Andrews -- Joe Andrews is the one
15 who testified that the gunpowder particle, the one
16 particle he found was there. And he also testified he
17 couldn't tell you how it got there.

18 He is the one that talked to you about if it was on
19 a pen -- one of the officers had the pen in his pocket at
20 the scene and passed it. We don't know how many other
21 ways. Shaken a hand. Many, many different ways.

22 He talked about the shoes. Fila is a big
23 manufacturer, popular brand, different outsoles. Could
24 be a 10. The ones he is comparing, could be a 10, could
25 be a 10 1/2, could be an 11.

26 He also talked about distortion. He is laying it
27 down flat. When we step, there is some distortion. They
28 made a point of telling you the Filas -- I guess, perhaps
29 I should have asked Mr. Simpson to take off his shoe. I

1 may have made a mistake. He said he wore a size 12. We
2 assume that is also in the Filas that he admitted he
3 owned.

4 Three-sixteenth of an inch difference in the sizes.
5 Is it distortion, or is it a different size? Is it a
6 half size off? The district attorney asked him for
7 certainty on the size of the shoe, and he couldn't give
8 it to us. He said just, just consistent.

9 He also talked a bit about wear patterns, and I just
10 want you to -- these shoes in evidence, these worn out
11 shoes that Miss Gholston never saw, that Miss Odom never
12 saw, the shoes that he clearly wore all the time have
13 clear and distinctive wear patterns. None of which are
14 seen on the Filas that Miss Gholston said he wore from
15 month to month.

16 There is no way he saw those shoes and didn't know.
17 If he had been wearing them for months and months, you
18 would have seen the individual wear pattern in the print,
19 and they are not there.

20 THE COURT: Counselor, time is up.

21 MR. DEGRUY: Your Honor, may I briefly, two
22 minutes to wrap it up?

23 The, the final instruction, Instruction Number 10,
24 where we talked -- it's the instruction that goes to the
25 testimony of Odell Hallmon, the jailhouse snitch, the
26 violent career criminal. Got an aggravated assault he
27 served time on. Felon in possession of firearm he served
28 time on. Probation violation.

29 Now he is serving time on possession, and he wants

1 to tell you that Mr. Evans gave him 14 years even after
2 he had agreed to help. But I still believe he was facing
3 life without parole, but I'll take him at his word that
4 his lawyer only told him he was facing 25 years
5 day-for-day. And as he said, I jumped at the first deal.
6 He is going to get out in less than five years by his
7 calculation.

8 I didn't -- I didn't want to go into his health
9 problems. I know he didn't want to. And I have great
10 sympathy for him, but the fact is he is getting good
11 medical care where he is right now.

12 And we have had some wonderful advances in medical
13 science. He is going to live with this disease for a
14 long time. He knows that. And he is waiting to get out
15 in five years. The man who said I would lie for a
16 cigarette, would lie for 20 years.

17 Curtis Flowers is not guilty, and I ask you to
18 return that verdict.

19 THE COURT: Mr. Evans, you may proceed.

20 MR. EVANS: Thank you, Your Honor.

21 Ladies and gentlemen, it's not much that I'll agree
22 with the defense on. The only thing that I will agree
23 with them on is that y'all are not here for sympathy for
24 anyone. You are not here for sympathy for the families
25 of the victims. You are not here for the family of the
26 sympathy of the defendant.

27 You are here to, under your oath, to do your job as
28 jurors. That is simply to listen to evidence and base
29 your decision on the evidence.

1 This is one of the -- I know they want to criticize
2 law enforcement. And there are times when law
3 enforcement might could do better. But in this case I
4 don't know of anything that law enforcement could have
5 done that wasn't done. Everything was done.

6 From the very beginning, you cannot work evidence
7 unless you protect the crime scene. Chief Hargrove did
8 the most important work in this whole case when he saw to
9 it that the crime scene was protected.

10 And what did he do then? You know, it's not easy
11 for somebody to say I need help. He did exactly what he
12 should do. And I don't care if you have got a 50-year
13 experienced expert in, in investigation, they need help.
14 It takes everybody working together.

15 He called for help. He called for the highway
16 patrol investigators. He called for the crime scene
17 unit. He called for the D.A.'s office. All of us went
18 to help him. All of us worked together. It wasn't any
19 of this oh, I'm Mr. So-and-so. I'm in charge of this
20 investigation. I'm Mr. Highway Patrol, I'm in charge of
21 this investigation. No. It was everybody working
22 together, and that's what made such a great case out of
23 this.

24 Now, the defense tactic in this is what I call a
25 shotgun approach. When you can't fight the case that the
26 State's got, you attack everything else.

27 And I listed down because I couldn't remember how
28 many folks they were calling liars. But basically, they
29 are calling 18 witnesses that have testified before y'all

1 liars. You can't believe anything except what the
2 defense attorneys say.

3 And the Court has already told you that what I say
4 and what they say is not evidence. You've got to base
5 your evidence on what you heard right up there.

6 And I'm not going to take a lot of time, but there's
7 a few points I really want to make. They want to attack
8 Odell Hallmon. They didn't attack him when he was their
9 witness. They thought he was wonderful when he was
10 willing to lie for Curtis Flowers.

11 He was not even in jail when he came to me and told
12 me that he had lied. Of course, I knew it was a lie.
13 But I didn't know he was going to admit it. He wasn't
14 even in jail. He had no charges. He had no reason to
15 lie. He came to me. He said my mother told me I needed
16 to straighten this out and quit lying and just tell the
17 truth.

18 After that, he did get back in trouble. I'm not
19 saying he is a perfect person. But he was not even in
20 jail at the time he told me. He did not get a deal on
21 what his second sentence was.

22 And y'all saw - did that appear to be somebody that
23 was lying to y'all? No. He was as sincere as he could
24 be. This defendant asked him to lie. This defendant
25 told him I killed those people.

26 Now, as a general rule, a jailhouse informant is to
27 be viewed with suspicion. That's where it comes to
28 common sense. You don't rule out your common sense and
29 leave it at home. You take it back in the jury room with

1 you to deliberate. You use your common sense to
2 determine what did happen, who's believable.

3 That is what a jury is. If we didn't need common
4 sense, we could have a computer go back there and vote;
5 but we can't. We've got to have people that have good
6 common sense that can go back there and use their
7 judgment.

8 How can you attack eyewitness identification when
9 you've got so many? I had planned on taking a chart. I
10 was going to draw out a map, and I was going to show
11 y'all his path. But there is no need in wasting y'all's
12 time. You saw it. We can actually -- as I told you on
13 opening statement, we can actually pinpoint on a map his
14 exact path.

15 Now, you know, say, one witness might have not been
16 100 percent positive. It doesn't matter because every
17 one of those witnesses proved that they are all accurate.
18 They are all telling the truth, because every one of them
19 bolsters and supports what the other one said.

20 This ridiculous theory of reward. Does that mean
21 that nobody can come in and be honest and try to do right
22 without reward? It's been 12 years. Not one witness
23 that testified before y'all has ever requested, nor been
24 paid one penny of reward. You heard them say that --

25 MR. CARTER: Object to that. There is no way
26 of proving that.

27 MR. EVANS: That was their testimony.

28 THE COURT: I will overrule the objection.

29 MR. EVANS: They were asked. They said I never

1 asked for it. I've never been paid. I don't want it.
2 I'm testifying because it's the truth. The only reason
3 they're in here is because of what they saw.

4 Most of these people were friends of his. They have
5 no reason to lie on him. They are telling you what they
6 saw. They are telling you what kind of shoes he wore.

7 Now, the defense wants to argue well, he wasn't
8 really positive about the shoes. The question I asked
9 him, Joe Andrews, the expert, can you say 100 percent
10 sure that the shoes that left the bloody shoe track were
11 consistent with having been made by the shoes that came
12 out of that box. And he said yes, I can.

13 MR. DEGRUY: We object to that, Your Honor.

14 MR. EVANS: That is 100 percent sure.

15 THE COURT: What's the objection?

16 MR. DEGRUY: He didn't testify to 100 percent
17 sure.

18 MR. EVANS: Yes, he did, Your Honor.

19 THE COURT: I'll let the jury -- they heard the
20 evidence. They can make their own decision about it.

21 MR. EVANS: Gunshot residue. 100 percent sure
22 on it that it was gunshot residue because nothing else in
23 the world is like it. What do you expect to find when
24 somebody fires a gun with their right hand? Gunshot
25 residue on the back.

26 Now, here again, this -- we are talking about some
27 very, very good police work. Because as you heard the
28 expert testify, after about four hours the possibility of
29 finding it on somebody's hand is practically zero -

1 whether they wash their hands, whether they stick them in
2 their pockets, whether they rub their hands or whatever,
3 they fall off. They are going to be gone.

4 So the chances of it still being there, luck was
5 with us, because it was still there. And it was where it
6 would be if he fired a gun. It is where it would be.

7 That is because it's good work. If they hadn't of
8 done that, then the defense would be saying oh, you
9 should have taken gunshot residue off his hands. But
10 they did do it, and it was there.

11 The tennis shoes. We can't have the shoes because
12 they -- somebody disposed of the shoes. We don't know
13 who disposed of them. But even Connie Moore, his
14 girlfriend, admitted -- you heard her admit it. She
15 didn't want the officers to find those shoes, because
16 they had blood on them.

17 They could have tested it and got blood. They
18 didn't want the shoes found. So that is why we were
19 stuck with having to go with the exact type of shoes in
20 the box, because they were disposed of. They tried to
21 get rid of the evidence, but they didn't think to get rid
22 of the box.

23 Catherine Snow. They want to attack her. No way
24 they can. She is just a hard-working girl that saw him
25 by the car. She knows him. She has seen him plenty of
26 times. And I think you can observe her sincerity.

27 She was scared of Curtis Flowers then. She is
28 scared of Curtis Flowers now. What did she say why she
29 was scared? Because she had already put together that he

1 is the one that stole the gun.

2 There had just been four murders. She was sure or
3 felt sure that he had committed the murders, and he saw
4 her. She had a reason to be scared.

5 You know, if there had been an arrest the day of the
6 crime, which there probably could have been. The
7 defendant could have been arrested right then, then the
8 defense would have been hollering well, you should have
9 waited until the crime lab stuff came in.

10 It's kind of a no-win situation. You try to do
11 what's best. The best is what they did. You wait until
12 all the evidence is in. You wait and make sure there is
13 not something that points another direction. You put it
14 all together, and then you've got what we've got right
15 here, an airtight case on him.

16 Law enforcement officers. There is no way of even
17 telling who did what it was so many involved. They
18 pulled manhole covers. They checked garbage cans. They
19 went to businesses. They went door-to-door.

20 This was an ongoing investigation, because they were
21 going to make sure that they got the person that
22 committed this crime. They didn't want to just run out
23 and make an arrest. They wanted to make sure they got
24 the killer, and that is what they did.

25 Doyle Simpson. Related to him. He didn't
26 particularly want to have to testify against his nephew.
27 He had already put two and two together the day after the
28 crime too when Catherine Snow told him that Doyle was the
29 one by the car. So he knew -- I mean Curtis was the one

1 by the car. So he knew he had stole his gun. He knew he
2 knew the gun was in there. He knew that he had been let
3 go from the store.

4 Now, that's another important part. You'll see
5 nowhere in any of these instructions - the defense has
6 talked about motive - nothing in any of these
7 instructions that says we have to prove one thing about
8 motive.

9 All we've got to prove to you is that he killed
10 these four people, and he did it during the commission of
11 a robbery. And the commission of a robbery is taking
12 something from someone by force, against their will, that
13 they -- if harm had not come to them, they could have
14 stopped somebody from doing it. And I can guarantee you
15 that Bertha Tardy wouldn't have let him walk out of the
16 store with that money if he hadn't of killed her. That
17 is where the robbery comes in.

18 And then they want to say well, you can just find
19 him guilty of murder. Just give him a break. Find him
20 guilty of murder. That is not your job either. There is
21 an instruction in there that says you are not to go with
22 a lesser included just to alleviate a burden.

23 The facts are there. The money was taken. We know.
24 We know exactly how much money was in there. And we know
25 it was taken, because it was gone. That's the robbery.

26 Now, did he have some other motive? Probably. Was
27 he mad at them? Probably. But we don't have to prove
28 that. Y'all told me the other day on voir dire, I asked
29 y'all, I said in this case, we are not going to have a

1 gun, but we are going to have the proof of what gun was
2 used. Would any of you require us to actually bring the
3 gun in here? And all of y'all said no.

4 What we are asking y'all to do is just what you
5 did -- said you would do on voir dire - look at the
6 evidence and convict this defendant. Convict him because
7 he is guilty.

8 There is absolutely so much evidence in here against
9 him, that I really don't have time to go through it, but
10 you have seen the whole chain on him taking the gun.

11 You have seen -- of course, some of y'all may know
12 Miss Beneva Henry. She couldn't come in here. She is in
13 too bad of shape now. But it was obvious that she hated
14 to testify against him. But she said yes, he came by my
15 house walking down the direction of town that morning
16 toward Tardy Furniture.

17 Porky Collins. Again, if they wanted to try to be
18 suggestive -- everything that they did was taking the
19 extra step to make sure that they weren't suggestive.
20 They showed two line-ups. And the first line up, he
21 wasn't even in it.

22 If they had been trying to, you know, pick out this
23 one right here, don't you think they would have put it in
24 the first group? No. They were trying to do it right.
25 When they got to the line-up that had his picture in it,
26 that's him. When he testified, that's the man I saw in
27 front of the store.

28 And then Clemmie Flemming. She saw him actually
29 running away from the back of the store. Y'all, they put

1 her -- I think it was her sister-in-law, she was with me
2 all day that day. Y'all saw her attitude, and how she
3 acted. She wasn't believable at all. Trying to
4 discredit an honest person who is trying to do the right
5 thing.

6 You heard the officers testify that they did check
7 both Connie's sons. One wore a size 7, one wore a size
8 12. Neither one of them wore a size 10 1/2. He wore the
9 10 1/2.

10 And how do you know that for sure? The officers
11 kept the shoes that he had on. Even though they weren't
12 the Fila shoes, they kept them. Why did they keep them?
13 So that we would have absolute proof for you what size
14 shoes he wore. No question about it.

15 But they want you to believe that Chief Hargrove
16 lied, Barry Eskridge lied, Wayne Miller lied, Melissa
17 Schoene lied.

18 Melissa Schoene, y'all saw her. She is one of the
19 best crime scene folks I've ever seen. She did an
20 excellent job. She documented everything. Then she was
21 asked to go look at the glove compartment of the car.
22 And her notes had that car as brown. It is brown. Her
23 assistant's notes had it two-toned. One time she said it
24 was brown, when she was looking at her report. So what?

25 Like she said, that is no big deal to her, because
26 that is not the evidence that she was looking at. But
27 they've got -- they've gotta try to make everybody look
28 like a liar because if, if you can't believe -- if they
29 can't convince you that these 18 people are lying, then

1 what have you got to do? You have got to convict him of
2 the murder because he did it.

3 THE COURT: Mr. Evans, you have two minutes.

4 MR. EVANS: Thank you, Your Honor.

5 I am not going to take anymore of your time. The
6 evidence is there. You've seen it. You've heard it. I
7 ask that you go back in the jury room, deliberate with
8 each other, go over the evidence, and come back out, we,
9 the jury, find the defendant guilty of capital murder on
10 each count, because he is.

11 And the judge is going to send a form back there
12 with y'all. There are four different forms or they're
13 under four different subheadings, because there are four
14 separate crimes, four people were killed.

15 On each of them I ask that after you deliberate, you
16 go back in there and you mark we, the jury, find the
17 defendant guilty of capital murder on each of those four.
18 Not because I say he is guilty, but because the evidence
19 says he is guilty.

20 Thank you, Your Honor.

21 (CONCLUSION OF THE REQUESTED PORTION OF THE TRANSCRIPT.)
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COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 61 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 21st day of July, 2009.

TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)

OFFICIAL COURT REPORTER

1882 Russell Road

Noxapater, Mississippi 39346

1 THE WITNESS: Thank you, sir.

2 MR. EVANS: Your Honor, the only other witness
3 we had is not here, so the State is prepared to finally
4 rest.

5 (THE TESTIMONY PORTION OF THE TRIAL WAS CONCLUDED.)

6 (THE TRANSCRIPT RESUMES AS THE CASE IS BEING SUBMITTED TO
7 THE JURY.)

8 THE COURT: Ladies and gentlemen of the jury,
9 you have heard all the evidence. You have been
10 instructed on the law by the Court.

11 Throughout the course of the trial so far I have
12 asked you not to discuss the case with anyone or among
13 yourselves. Now you do so.

14 And we have got two alternates that I am going to
15 excuse at this time.

16 Cynthia McBride and Shirley Annette Blakely, we do
17 appreciate your service, but we do still have a complete
18 panel. So you may go.

19 And the remainder of you, if you will step in the
20 jury room.

21 I know it's right about the time you've been going
22 to lunch every day. So if you want to go to lunch, write
23 a note out. The bailiff will give it to me.

24 I mean up to this point the Court and the attorneys
25 have kind of been telling you how to go. You're in
26 charge now. We are here to do whatever you want.

27 So if you want to recess at any time for lunch or
28 for anything else, you send a note to the bailiff and let
29 me know that. Otherwise, I'll just let you proceed to

1 deliberate.

2 Also, it may be a few minutes sometimes. If you
3 knock on the door, that will be our cue that you do have
4 a note or you've reached a verdict. Sometimes it takes a
5 few minutes to round everybody up. So just be patient
6 if, if we should be a few minutes before we call you back
7 in.

8 But as I say, at this point, if you will, please,
9 step in the jury room. And the evidence will be taken in
10 there with you. When you do get ready to recess for
11 lunch, let us know that. If you need anything at all,
12 let us know that.

13 Let the alternates step in and get their belongings
14 out before everybody else goes in.

15 BAILIFF: When I took them on break, the jurors
16 had requested they have a sketch pad, tape and some
17 markers.

18 THE COURT: Okay. And we've got -- I think at
19 some point the jurors had indicated to the bailiff they
20 would like a sketch pad, some markers and tape. And I
21 assume no one has any objection to that.

22 MR. EVANS: No, sir.

23 MR. DEGRUY: (Shook head.)

24 THE COURT: If you will, now, as I say, step in
25 the jury room. And the evidence will be handed in to you
26 by the bailiffs. Any time you want to recess for lunch
27 or anything, let us know.

28 (THE JURY LEFT THE COURTROOM TO DELIBERATE AT 12:06.)

29 (THE EXHIBITS THAT WERE ADMITTED INTO EVIDENCE WERE

1 HANDED IN TO THE JURY ROOM BY THE BAILIFFS.)

2 THE COURT: I want to go on record now. I just
3 -- because it has taken a few minutes because of the
4 number of exhibits that were introduced.

5 But I want to make it known for the record the court
6 reporter has gone through all the exhibits. All the
7 exhibits that were introduced into evidence have been
8 given to the jury. There were a few items that were
9 marked for identification that did not go to the jury.
10 They are laying there on the table.

11 And so I guess -- again, I just want to make clear,
12 everything that was admitted has been submitted to the
13 jury. Nothing that was not admitted has been submitted
14 to them. And I just wanted to make that clear.

15 Also, we do have a note where the jury
16 stated they've elected Orman Knox as foreman.

17 I think during lunch hour - I know they have in the
18 judge's chambers - somebody has been coming in and
19 cleaning up, and they have put Clorox in the toilets. It
20 has smelled so bad, I have been about asphyxiated in the
21 judge's chambers.

22 The jury must be suffering that too, because they
23 asked please do not clean up while we are at lunch.
24 Well, that wasn't going to happen with the exhibits in
25 there to start with. But anyway, they didn't know that.
26 And it said we are ready take one hour for lunch before
27 deliberating. Thank you. Orman Knox.

28 I am going to bring them in, have them seated and
29 just ask them to - they will be shown to lunch - not to

1 talk about it until I give them further instructions.

2 (THE JURY RETURNED TO THE COURTROOM AT 12:28.)

3 THE COURT: Ladies and gentlemen, it took a few
4 minutes to get all the evidence in to the jury room. The
5 court reporter was making sure that she notated, because
6 she has got to keep up with all that. So that is why it
7 took a few minutes.

8 And I also wanted to wait until everybody cleared
9 out before we let you go for lunch. So you will be,
10 obviously, kept together as a group during lunch. I will
11 ask you not to talk about the case over the lunch hour,
12 because, you know, this is a recess. And I only want you
13 deliberating when you are all together as a group.

14 So if you will just wait for a few minutes, and they
15 will show you to lunch. And then I'll instruct you after
16 you get back to begin your deliberations again at that
17 point.

18 So if you will just be patient a couple more
19 minutes, and you will be shown out. Thank you.

20 And we will be in recess.

21 (COURT RECESSED FOR THE NOON HOUR.)

22 (PROCEEDINGS RESUMED IN OPEN COURT. MR. EVANS, MR. HILL,
23 MR. DEGRUY, MRS. STEINER, MR. CARTER AND THE DEFENDANT WERE
24 PRESENT.)

25 (THE JURY RETURNED TO THE COURTROOM.)

26 THE COURT: Ladies and gentlemen, I just wanted
27 to bring you back out now, ask that you resume or begin
28 your deliberations.

29 And again, at any time if you need something from

1 the Court, please write a note out and knock on the door
2 and let us know that. And we'll be just waiting for your
3 decision at this point.

4 So if you will now just resume your deliberations.

5 (THE JURY LEFT THE COURTROOM AT 1:29.)

6 BAILIFF: Your Honor.

7 (THE BAILIFF HANDED THE COURT A PIECE OF PAPER.)

8 THE COURT: I've got a note that says that they
9 would like to have a white board with markers, but I
10 don't think we have got one of those, even in the
11 courthouse. So I am just going to --

12 Do we have a white board with markers?

13 CLERK: Not that I have seen or found.

14 THE COURT: We do not have one available for
15 your use. Just write that.

16 (THE REPLY WAS HANDED IN TO THE JURY ROOM AT 1:31.)

17 (A RECESS WAS TAKEN.)

18 (THE JURY KNOCKED AT 2:45.)

19 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
20 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

21 THE COURT: Court will come back to order.

22 I don't know if the jury has just got a note or if
23 they have got a verdict. But I just want to advise
24 everybody in the courtroom, I don't want to hear any
25 comments. If it's a verdict, I don't want to hear from
26 anyone, any comments at all.

27 If I have got anybody in the courtroom that feels
28 you can't keep your comments to yourself or feel like you
29 can't control your emotions, then this is the time for

1 you to be making an exit, because, again, I do not want
2 to hear any reactions from anyone.

3 You can bring them in.

4 (A JUROR HANDED THE BAILIFF A NOTE. THE BAILIFF HANDED
5 THE NOTE TO THE COURT.)

6 THE COURT: I have got a note saying we need to
7 speak to the judge about a matter of importance, signed
8 by the foreman.

9 So I am going to just write them a note back and
10 advise that they must write out their -- whatever
11 situation exists and advise me of that.

12 Actually, I will just read into the record. I wrote
13 back please advise the Court in writing of whatever
14 matter needs the attention of the Court.

15 I will have the bailiff hand that back in to the
16 jury, and we will recess until I receive that.

17 (A RECESS WAS TAKEN.)

18 (THE JURY KNOCKED AT 2:50.)

19 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
20 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

21 THE COURT: Court will come to order.

22 (THE BAILIFF HANDED THE COURT A NOTE.)

23 Okay. The note from the jury reads It has come to
24 the attention of the jury that a member of the jury has
25 divulged knowledge of the investigation that was not
26 presented in court. It is the opinion of the rest of the
27 jurors in reaching a decision, we request guidance in
28 further action.

29 MR. EVANS: I think the Court has got to

1 instruct them that they have got to base their decision
2 only on what they heard in court.

3 THE COURT: I think that is a correct
4 statement.

5 I will write them a note and tell them that they
6 must base their decision on the information gathered in
7 open court and not on any information gathered outside
8 the courtroom, which I have already instructed them once
9 in C-1. I think it was actually given as Instruction 1.

10 I'll, again, read verbatim what I have written. I
11 have written please reread Instruction Number 1. You are
12 to base your verdict on the evidence presented in open
13 court and not on any information gathered outside the
14 courtroom.

15 (THE NOTE WAS HANDED IN TO THE JURY ROOM AT 2:55.)

16 THE COURT: We will recess now to await further
17 notes or questions or verdict from the jury.

18 (A RECESS WAS TAKEN.)

19 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
20 CARTER AND THE DEFENDANT WERE PRESENT IN JUDGE'S CHAMBERS.)

21 MR. DEGRUY: Your Honor, we are -- we are in
22 chambers now.

23 We make a motion for a mistrial based on the last --
24 the jury note that came out where the jurors said that
25 one -- a member of the jury had information that did not
26 come out in open court that they had shared with the rest
27 of the jury.

28 And based on the extraneous information that the
29 jury had -- and as I recall, the note had something about

1 they didn't know what to do with this information or how
2 to deal with this information.

3 So we would make a motion for mistrial at this time.

4 MR. EVANS: I think the Court properly
5 instructed the jurors that they are only to consider what
6 evidence they heard in court. Because as everybody
7 knows, everyone on this jury knew everything about the
8 case before they were ever picked.

9 THE COURT: At this point I'm not going to
10 declare a mistrial. If a verdict is reached, I will poll
11 each juror about whether they agree with the verdict,
12 which is normal. But I'll go one step further, and I'll
13 ask each one of them if they based their verdict in any
14 way on information that was gathered outside the
15 courtroom. And, of course, I'll rule accordingly if I
16 have someone to say that outside influences came into
17 play.

18 But at this time I'm, I'm thinking it's premature to
19 consider or grant the motion. So it will be denied for
20 now.

21 MR. DEGRUY: Thank you, Your Honor.

22 (THE CONFERENCE IN CHAMBERS WAS CONCLUDED.)

23 (THE JURY KNOCKED AT 6:06.)

24 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
25 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

26 THE COURT: Court will come back to order.

27 Again, ladies and gentlemen, before I bring the jury
28 out, I don't know what -- they have knocked. I don't
29 know if they have got a verdict or anything else. But I

1 just want to make sure that everybody understands that if
2 we do have a verdict coming in, I do not want to hear any
3 comment from anyone or any expression of any kind from
4 anyone in the audience about whatever that might be.

5 If you will see what they need now.

6 (THE JURY HANDED THE BAILIFF A NOTE. THE BAILIFF HANDED
7 THE NOTE TO THE COURT.)

8 THE COURT: Actually, I have got a request from
9 the jury to recess deliberations till tomorrow. It reads
10 we request a recess until tomorrow. We are currently
11 deliberating on items that will take a substantial amount
12 of time to consider.

13 So the Court will grant the request of the jury. I
14 will bring them back out here and instruct them over the
15 recess not to discuss the case. And then I will allow
16 them to be recessed and resume deliberations in the
17 morning.

18 So if you will, bring them in at this time.

19 (THE JURY RETURNED TO THE COURTROOM.)

20 THE COURT: Ladies and gentlemen of the jury, I
21 have got your note asking to recess until in the morning.
22 And certainly, the Court will grant that request from
23 you.

24 I have told you we are at your disposal now, and you
25 are in control of matters. And certainly, we want to
26 accommodate any request that you have.

27 So I'll ask you over this recess, you know, until
28 you get back together, all 12 of you as a group, tomorrow
29 morning, not to discuss the case with anyone or among

1 yourselves.

2 And obviously, you can't talk to any of the bailiffs
3 or see any media reports or anything else about the case.
4 But I caution you, I just don't want you talking about it
5 tonight before you are all -- because there might be a
6 couple of you separate from the rest of you. So you are
7 not to discuss the case with anyone or among yourselves
8 until I advise you in the morning to resume your
9 deliberations.

10 We will resume at 9:00 in the morning. And I'll ask
11 you just to step back in the jury room for a few minutes
12 until everybody has had time to clear out, until they
13 have got the vans around for you. And then we will
14 resume in the morning.

15 (THE JURY RETURNED TO THE JURY ROOM.)

16 THE COURT: Court will stand in recess until
17 9:00 in the morning.

18 (THE PROCEEDINGS ON MONDAY, SEPTEMBER 29, 2008, WERE
19 CONCLUDED.)

20 (COURT WAS DULY OPENED ON TUESDAY, SEPTEMBER 30, 2008.
21 MR. EVANS, MR. DEGRUY, MRS. STEINER AND THE DEFENDANT WERE
22 PRESENT IN OPEN COURT. PROCEEDINGS WERE AS FOLLOWS:)

23 (THE JURY RETURNED TO THE COURTROOM.)

24 THE COURT: Good morning, ladies and gentlemen.

25 I had asked you yesterday evening to cease
26 deliberations until you got back to the courthouse this
27 morning.

28 So now I am going to ask that you retire back to the
29 jury room and resume your deliberations. And we will be

1 in recess awaiting your verdict.

2 So if you will, just step back in and continue your
3 deliberations. I thank you.

4 (THE JURY RETURNED TO THE JURY ROOM AT 9:00.)

5 THE COURT: We will be in recess.

6 (A RECESS WAS TAKEN.)

7 (THE JURY KNOCKED AT 11:55.)

8 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

9 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

10 THE COURT: Court will come back to order.

11 I have just a got a note from the jury. They are
12 asking to recess for an hour for lunch. So obviously, I
13 am going to accede to that request.

14 If you will, just bring them in and have them seated
15 for a minute.

16 (THE JURY RETURNED TO THE COURTROOM AT 12:00.)

17 THE COURT: Ladies and gentlemen of the jury, I
18 have got your note requesting a recess for lunch.
19 Obviously, that is something that I am going to grant.

20 So if you will, step in the jury room for a few
21 minutes. And then we will wait until everybody clears
22 out for you to be shown out for lunch.

23 I will ask you over the recess to cease deliberation
24 over lunch as well. I know one of you might be out of
25 the room at the time. So I rather you do all your
26 deliberating in the jury room.

27 So we will recess. And then after lunch just call
28 you back in here and ask you to resume deliberations like
29 we have done through this process so far.

1 If you will be shown back in the jury room for a few
2 minutes you will be shown to lunch. We will resume in
3 about an hour or so.

4 (THE JURY RETURNED TO THE JURY ROOM.)

5 (THE BAILIFF HANDED THE COURT A NOTE.)

6 I've got a jury -- we will just take this note up
7 after lunch and send them to lunch for right now.

8 Court will stand in recess at this time, and we will
9 be resuming after lunch.

10 (COURT RECESSED FOR THE NOON HOUR.)

11 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
12 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT. THE JURY
13 WAS NOT PRESENT.)

14 THE COURT: Court will come back to order.

15 Right as we were leaving for lunch, I received a
16 note that was handed to me by the bailiff from one of the
17 jurors and it reads as follows. A juror, Mr. Bibb,
18 announced during deliberation that he was present in a
19 lawn mower shop behind Tardy Furniture all day on the day
20 of the murders. He has told us that he knows there was
21 no investigating, questioning or canvassing of the area
22 and that all evidence in the store was planted because he
23 personally observed the activity at that store that day.
24 I could not in good faith withhold this information from
25 the Court. Please advise me on how to continue. It is
26 signed by Jenny Bailey, one of the jurors.

27 At this point I am going to bring the jury out. I
28 am going to remind them of Instruction 1, which told them
29 that all their -- everything had to be based on the

1 information gathered here in open court. And I'm going
2 to individually question each one of them to see if they
3 can assure me they will do that.

4 So if you will, bring the jury back out.

5 (THE JURY RETURNED TO THE COURTROOM.)

6 THE COURT: Court will come back to order.

7 It has been brought to the attention of the Court
8 that one of your number is trying to bring up information
9 during deliberations that was not presented in open
10 court. And I just want to remind you that Instruction
11 Number 1 from the Court advised that you are not to
12 consider any information gathered outside the courtroom,
13 but you are to base your verdict on the decision from the
14 evidence presented here in open court.

15 I also want to remind each one of you that you swore
16 under oath that you would do that, that your -- that no
17 information gathered outside the courtroom would be in
18 any way affecting your deliberations.

19 So I want to just instruct you once again that no
20 information gathered outside the courtroom is to be
21 considered, and only that information that was provided
22 here in open court to you is to be considered during the
23 jury deliberations.

24 So I am going to start on the back row and ask if
25 each of you will assure me that you will not consider any
26 information gathered outside the courtroom, but will base
27 your decision only on the evidence presented here in
28 court.

29 Will you do that, sir?

1 A JUROR: Sir, yes, sir.
2 THE COURT: And will you?
3 A JUROR: Yes, sir.
4 THE COURT: And will you?
5 A JUROR: Yes, sir.
6 THE COURT: And will you?
7 A JUROR: Yes, sir.
8 THE COURT: And will you?
9 A JUROR: Yes, sir.
10 THE COURT: Will you?
11 A JUROR: Yes, sir.
12 THE COURT: And will you?
13 A JUROR: Yes, sir.
14 THE COURT: Will you, ma'am?
15 A JUROR: Yes, sir.
16 THE COURT: And will you?
17 A JUROR: Yes, sir.
18 THE COURT: Will you?
19 A JUROR: Yes, sir.
20 THE COURT: Will you?
21 A JUROR: Yes, sir.
22 THE COURT: Will you?
23 A JUROR: I will do so, Honor.
24 THE COURT: Ladies and gentlemen, if you will
25 now resume your deliberations and step back in the jury
26 room.
27 (THE JURY RETURNED TO THE JURY ROOM AT 1:06.)
28 (A JUROR HANDED THE BAILIFF A NOTE BEFORE RETURNING TO
29 THE JURY ROOM.)

1 BAILIFF: The juror handed me this. This is
2 for her to get some medicine.

3 THE COURT: Okay.

4 BAILIFF: I just wanted you to know.

5 THE COURT: We will recess for further
6 deliberations of the jury.

7 (A RECESS WAS TAKEN.)

8 (THE JURY KNOCKED.)

9 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
10 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

11 THE COURT: Good evening.

12 Court will come back to order.

13 (THE JURY HANDED THE BAILIFF A NOTE. THE BAILIFF HANDED
14 THE NOTE TO THE COURT.)

15 Okay. I've got a note that says Your Honor, we have
16 not been able to reach a verdict.

17 So I think I am going to bring them out and read
18 them the Sharplin instruction, send them on to their
19 motels and have them resume their deliberations in the
20 morning.

21 You can bring them back in.

22 (THE JURY RETURNED TO THE COURTROOM.)

23 Court will come to order.

24 Ladies and gentlemen of the jury, I know it's
25 possible for honest men and women to have honest
26 different opinions about the facts of a case. If it is
27 possible to reconcile your difference of opinion and
28 decide this case, then you should do so.

29 Accordingly, I remind you that the Court had

1 originally instructed you that the verdict of the jury
2 must represent the considered judgment of each juror. It
3 is your duty as jurors to consult with one another and to
4 deliberate in view of reaching an agreement if you can do
5 so without violence to your individual judgment.

6 Each of you must decide the case for yourself but do
7 so only after an impartial consideration of the evidence
8 with your fellow jurors. In the course of your
9 deliberations do not hesitate to re-examine your own
10 views and change your opinion if you're convinced it is
11 erroneous, but do not surrender your honest convictions
12 to the weight or effect of the evidence solely because of
13 the opinion of your fellow jurors or for the mere purpose
14 of returning a verdict.

15 I want you to please continue your deliberations.

16 And I think maybe this would be a good time to have
17 you recess for the evening. And so I will just ask you
18 not to discuss this case over the evening recess. And at
19 9:00 in the morning, I'll have you reconvene and have you
20 continue your deliberations at that time.

21 So this court will stand in recess until 9:00 in the
22 morning.

23 (THE JURY RETURNED TO THE JURY ROOM.)

24 (THE BAILIFF CONFERRED WITH THE JUDGE.)

25 THE COURT: The bailiff advised me the jury had
26 indicated that if they were asked to continue
27 deliberating that they would just prefer to have food
28 brought in and continue to stay and deliberate a while
29 longer. So that is what we will do.

1 BAILIFF: Could you send a note in there to
2 tell them?

3 (THE JURY KNOCKED ON THE DOOR.)

4 THE COURT: Well, they may be passing me a note
5 to that effect.

6 (THE JURY HANDED A NOTE TO THE BAILIFF.)

7 THE COURT: Your Honor, we request to eat.

8 Well, I don't know that I am going to pass another
9 note. Well, I guess I better because, you know, because
10 I don't want them to stop deliberating right now if they
11 are deliberating.

12 I just wrote on the back of the note, yes, food will
13 be brought to you.

14 Instead of recessing for the day we will continue to
15 allow them to deliberate since that is what they are
16 requesting to do. We will be in recess for a while
17 longer.

18 (A RECESS WAS TAKEN.)

19 (THE JURY KNOCKED AT 5:30.)

20 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
21 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.
22 PROCEEDINGS WERE AS FOLLOWS:)

23 THE COURT: Okay. I just got a note that reads
24 Your Honor, if we could have a break (smoke-fresh air).

25 Some want to smoke and some want fresh air, which is
26 kind of ironic. And then it said and to clarify that, we
27 want food to be brought to us to continue deliberating.

28 So I am going allow the bailiffs in a couple of
29 minutes to walk the jury out in the back porch area and

1 just make sure nobody else is out there. Just let them
2 catch some fresh air for those that want fresh air and
3 for those that want to smoke, they can get on the other
4 end of the porch or whatever. Then I will tell them we
5 are going to have food brought in.

6 So if you will, just bring them in. And I'll let
7 them go out and get some fresh air and smoke.

8 (THE JURY RETURNED TO THE COURTROOM.)

9 Ladies and gentlemen, I, I understood what you
10 meant. We are going to have food brought to you to eat
11 here while you are continuing to deliberate, and I
12 understand you want to get a breath of fresh air and walk
13 outside for a few minutes. So I am just going to let the
14 bailiffs walk outside with you and you can stand on the
15 front, back porch there and just get a rest for a few
16 minutes. And those of you that want to take a little
17 smoke break, maybe get away from those that want the
18 fresh air.

19 So if y'all will just follow the bailiffs outside,
20 and they will make sure nobody is around you while that
21 is taking place. And then whenever you get ready to come
22 back in, just please resume your deliberations at that
23 time.

24 BAILIFF: A juror handed me that but it is not
25 -- it is just a personal...

26 THE COURT: Okay. We will make sure that food
27 is ordered.

28 BAILIFF: Okay.

29 THE COURT: And so if you will just follow the

1 bailiffs out for a few minutes. And then, as I say, just
2 come back in and further deliberate.

3 (THE JURY LEFT THE COURTROOM.)

4 (A RECESS WAS TAKEN.)

5 (THE JURY RETURNED TO THE COURTROOM.)

6 THE COURT: Okay. Ladies and gentlemen, one of
7 the bailiffs had told me perhaps y'all did want to recess
8 for the evening instead of continuing; so I don't really
9 know what you want to do at this point. That is why I
10 called you back out here, because I didn't want to send
11 word by anybody. I wanted it to come from me.

12 Whatever you want to do, we'll do it. If you want
13 to stay here tonight and continue deliberating, we will.
14 And if you want to recess right now, we will. So it is
15 just up to you.

16 So, whatever you just want to do, walk back in the
17 jury room and pass me a note if you want to recess. If I
18 do not receive a note, I will presume that you are ready
19 to continue. If you will just step back in.

20 (THE JURY RETURNED TO THE JURY ROOM AT 5:48.)

21 THE COURT: I have not received a note saying
22 they want to stop deliberating. I will presume they want
23 to continue deliberating. We will be in recess awaiting
24 further notes -- waiting further notice or a verdict from
25 the jury.

26 (DINNER WAS DELIVERED TO THE JURY IN THE JURY ROOM.)

27 (THE JURY KNOCKED.)

28 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.

29 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

1 THE COURT: Court will come back to order.

2 I think we have another knock.

3 You can find out what the knock is about.

4 (THE JURY HANDED THE PIZZA BAGS OUT TO THE BAILIFF.)

5 THE COURT: Well, we have got a conscientious
6 jury that wanted to make sure Pizza Inn got their
7 delivery bags back. I was afraid they were upset about
8 what type pizza they had gotten, but I see that is all it
9 was. We will be back in recess.

10 (A RECESS WAS TAKEN.)

11 (THE JURY KNOCKED AT 7:35.)

12 (MR. EVANS, MR. HILL, MR. DEGRUY, MRS. STEINER, MR.
13 CARTER AND THE DEFENDANT WERE PRESENT IN OPEN COURT.)

14 THE COURT: Good evening. Be seated, please.

15 I understand we have a knock. I do not know what it
16 is about. So we will find out now.

17 (THE JURY HANDED A NOTE TO THE BAILIFF. THE BAILIFF
18 HANDED THE NOTE TO THE COURT.)

19 THE COURT: I've got a note from the jury
20 saying that we were unable to come to a unanimous
21 decision.

22 And at this point I really don't see that further
23 deliberations are going to be helpful. They have
24 deliberated longer than any jury that I have ever had
25 deliberate; I think 15 or 16 hours.

26 So I don't see at this point any reason to continue
27 this any longer. So I am going to bring the jury out and
28 have them seated in the box.

29 And I'll at least question the foreman to see if he

1 thinks further deliberations would be helpful. And if he
2 tells me it would not be, I don't think there is any
3 other option but to declare a mistrial.

4 (THE JURY RETURNED TO THE COURTROOM.)

5 THE COURT: I've received a note from you,
6 ladies and gentlemen, that tells me that you are unable
7 to come to a unanimous decision.

8 So I'll ask the foreman.

9 Mr. Foreman, do you think that any further
10 deliberation would be helpful or beneficial to the jury?

11 A JUROR: Your Honor, at this time no further
12 deliberation would be helpful.

13 THE COURT: Ladies and gentlemen, I will
14 declare a mistrial. All of you, except Mr. Bibbs, are
15 free to go at this time.

16 Mr. Bibbs, I want you to remain in the court.

17 And the rest of you are free to go.

18 You can just have a seat there until they gather
19 their belongings, Mr. Bibbs. You can have a seat there
20 until they gather their belongings.

21 (JUROR JAMES BIBBS WAS SEATED.)

22 (THE JURORS, EXCEPT FOR MR. BIBBS, LEFT THE COURTROOM.)

23 THE COURT: Now, if you will come around, Mr.
24 Bibbs, and step in front of the bench. I want to ask you
25 a few questions.

26 (JUROR JAMES BIBBS APPROACHED THE BENCH.)

27 Do you remember last week that the jury was
28 questioned under oath and there were a number of
29 questions about this case that I -- I mean I questioned

1 the jury at length for almost two days. I don't think
2 I've ever asked any more questions of a jury panel than I
3 asked of this one.

4 And I remember asking a specific question, and that
5 is, of all the panel, have you heard anything about the
6 case. Do you remember that question being asked?

7 JUROR JAMES BIBBS: Yes, I remember.

8 THE COURT: And your answer to the Court was
9 that you had heard about the case in the media.

10 And then I asked you -- I knew you had a relative in
11 law enforcement. And I -- and I asked you if you had
12 heard anything about the case from your relative. And
13 you indicated that you had not.

14 Well, I receive a note from the jury less than an
15 hour into deliberation yesterday advising that there was
16 a particular juror who was trying to bring out
17 information during deliberation that had not been
18 presented here in open court.

19 And then I got another note right about lunch today
20 from a juror who specifically stated that you were at a
21 lawn mower repair shop the same day as these murders,
22 that you were real close to the shop. And that you knew
23 the police officers were not doing what they said because
24 you were in the neighborhood. That juror further stated
25 to me that you stated that you knew the police didn't --
26 that, that some of the evidence in the Tardy Furniture
27 store was planted.

28 And so I want to know if that occurred. Did you --

29 JUROR JAMES BIBBS: Only --

1 THE COURT: -- tell the jury those things?

2 JUROR JAMES BIBBS: Only thing I told the jury
3 was that I was in the alley at the time and didn't anyone
4 come around there. That is the only thing I said.

5 THE COURT: And you didn't -- you didn't -- you
6 didn't mention anything about the evidence inside the
7 store or that the law --

8 JUROR JAMES BIBBS: No.

9 THE COURT: -- officers --

10 JUROR JAMES BIBBS: No.

11 THE COURT: -- didn't go around --

12 JUROR JAMES BIBBS: No.

13 THE COURT: -- investigating.

14 JUROR JAMES BIBBS: No. I, I didn't say -- I
15 said we were standing around at the repair shop. At
16 the -- at the time I was there, didn't anyone come around
17 there. That is the only thing I said.

18 THE COURT: Well, is there any reason why when
19 we were questioning you last week under oath that you
20 didn't bother to mention to the Court that you had
21 knowledge about this case?

22 JUROR JAMES BIBBS: Well, not -- I mean I, I
23 misunderstood you.

24 THE COURT: No, sir. You did not
25 misunderstand. I could have the court reporter right now
26 read what was said by you so don't stand there and lie to
27 me.

28 Now, is there any reason why you felt compelled to
29 perjure yourself before this Court last week?

1 JUROR JAMES BIBBS: I wasn't intending to do
2 that, Judge.

3 THE COURT: Well, I am going to let the grand
4 jury of this county decide whether you committed perjury,
5 because in my eyes --

6 (MR. CARTER STARTED WALKING OUT OF THE COURTROOM.)

7 THE COURT: -- you have committed perjury.

8 And Mr. Carter, if you -- you have a seat, Mr.
9 Carter. You have not been --

10 (MR. CARTER RETURNED TO COUNSEL TABLE AND WAS SEATED.)

11 I don't know who you think you are to just storm out
12 of this court, but I will tell you this court is still in
13 session, and you are going to sit here. And I will take
14 the matters up with you after I take them up with Mr.
15 Bibbs.

16 It is clear that Mr. Flowers and his family were
17 able to get Miss Purnell on the panel, and it's clear
18 that Miss Purnell perjured herself.

19 And I don't know why defense counsel now wants to
20 storm out when the Court is calling to task jurors that
21 decide to lie under oath in an attempt to subvert justice
22 in this state and in this county.

23 And I do not appreciate, Mr. Carter, you storming
24 out of here like this case is in recess.

25 Mr. Bibbs, I am going to bind you over to await the
26 action of the grand jury. There will be, I'm sure,
27 several members of this panel that were on this jury that
28 will be testifying next week in front of the grand jury.
29 But I do find probable cause at this time to believe that

1 you have committed the crime of perjury.

2 I am going to order you bound over to await the
3 action of the grand jury. I am going to have you jailed
4 right now, and I am going to set bond at \$20,000.

5 I'm not -- I mean this is absolutely ridiculous that
6 I have jurors come into this court and lie to this Court
7 in order to get on a jury. And that is exactly what you
8 have done, Mr. Bibbs.

9 And you can stand there and you can grin and you can
10 shake your head all you want, but you know and I know
11 that that is exactly what has happened.

12 And if there is ever a case, I think the legislature
13 needs to do some serious consideration of the laws of
14 this state because right now the prosecutor is not
15 allowed to receive, to get a change of venue. But we
16 have attempt after attempt to subvert justice by having
17 people lie in order to get on the jury. It is high time
18 the legislature took some action.

19 And, Mr. Evans, I would encourage you to get with
20 the prosecutor's association, the attorney general of
21 this state and others in an attempt to get some
22 legislation passed to address this problem because this
23 is the most clear-cut case I have ever seen of.

24 And Mr. Bibbs, you are free to go in handcuffs. And
25 when you post \$20,000 bond, you are free to be released
26 at that time.

27 Now, Mr. Carter, do I have any explanation from you
28 why you stood up and attempted to storm out of this
29 court? Because if you wish to apologize to this Court

1 right now, I will accept it. Otherwise, I will take up a
2 matter as to whether you should be held in contempt.

3 MR. CARTER: Well, Your Honor, first of all,
4 since you asked for my explanation, I will apologize.
5 But by the same token, I don't agree based on what that
6 gentleman said that he has committed perjury. And I
7 happen to think this is a volatile situation.

8 THE COURT: You are right. It is volatile.
9 When you have jurors lie to get on a panel, it is
10 volatile.

11 MR. CARTER: And I tried to walk out because I
12 disagree.

13 THE COURT: Well, what do you call it?

14 MR. CARTER: Your Honor, as I understand it,
15 the gentleman was behind the store.

16 THE COURT: He was in the area and had
17 knowledge of what took place. So if that is not a
18 clear-cut perjury, I don't know what is.

19 I guess you probably think Miss Purnell didn't
20 commit perjury either.

21 MR. CARTER: I don't put words in your mouth --
22 words in your mouth, Your Honor, don't put them in mine.
23 I apologize to the Court, but I can speak for myself. I
24 won't try to speak for the Court. I don't want the Court
25 to speak for me. I apologize.

26 That moment upset me. It made me angry. I felt
27 differently. I felt like it would be best for me to walk
28 out than sit here and be tempted to say something that I
29 had no -- I don't represent the gentleman, so I had no

1 reason to say anything. And I felt like it was best for
2 me to leave than to be tempted or, in fact, say
3 something.

4 THE COURT: Well, I will accept that
5 explanation, Mr. Carter.

6 This court will stand in recess.

7 This matter -- a mistrial is declared, and this case
8 will be set at some later date by the Court.

9 (THE PROCEEDING WAS CONCLUDED.)
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COURT REPORTER'S CERTIFICATE

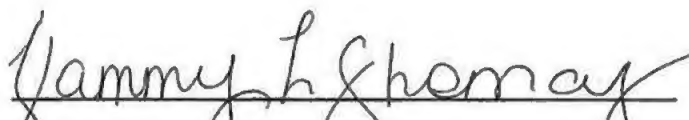
STATE OF MISSISSIPPI

COUNTY OF MONTGOMERY

I, Mrs. Tammy L. Thomas, Official Court Reporter for the Fifth Circuit Court District of the State of Mississippi, do hereby certify that the foregoing 572 pages are a true, correct, complete and full transcription of my stenotype notes and tape recording taken in this matter, and that I have transcribed the same to the best of my skill and ability.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and electronic disks. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 25th day of June, 2009.



TAMMY L. THOMAS, CSR, RPR (CSR NO. 1304)

OFFICIAL COURT REPORTER

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